THE INSPECTORATE'S REPORT ON CPS GLOUCESTERSHIRE

REPORT 03/00 **JULY 2000**

CONTENTS

PREFACE

INTRODUCTION 1.1

THE INSPECTION 2.1

Providing advice
Quality of advice 3.1
Timeliness of advice 3.10
Advice from counsel 3.16
Appropriateness of request for advice 3.17
Recording of informal advice 3.22

Reviewing cases
Quality of review decisions 4.1
Timeliness of review 4.14
Selection of the appropriate charge and charging standards 4.16
Mode of trial 4.20
Bail 4.23
Youth justice and persistent young offenders 4.24
Fast-track and short bail date cases 4.32
Discontinuance 4.40
The quality of decisions to discontinue 4.54
Adverse cases 4.65
Adverse cases in the magistrates' courts 4.67
Adverse cases in the Crown Court 4.69
Judge directed acquittals 4.76
Foreseeability of adverse cases 4.80
Learning from experience 4.83
Review endorsements 4.93

Preparing cases
Advance information 5.1
Handling and service of unused material 5.7
Handling of sensitive material 5.23
Summary trial preparation 5.28
Preparation of committals 5.40

Instructions to counsel 5.43
Quality of indictments 5.51
The role of the CPS in the Crown Court 5.58
Plea and directions hearings (PDHs) 5.71
Sensitive and aggravated offences 5.74
Custody time limits 5.83
File endorsements 5.93
Providing information to the Probation Service for pre-sentence reports 5.96

Presenting cases
The quality of advocacy in the magistrates' courts
(i) Crown Prosecutors 6.1
(ii) designated caseworkers 6.26
(iii) agents 6.30
The quality of advocacy in the Crown Court
(i) Crown Prosecutors 6.32
(ii) counsel 6.35
Monitoring advocacy standards 6.37
Returned briefs 6.46

Management and operational issues
Management of the Area 7.1
Internal communication 7.9
Structure and organisation 7.11
Case management 7.15
Management of financial resources 7.20
Management of human resources
Investors in people 7.26
Training 7.27
Sickness 7.30
Use of resources 7.32
Forward job plans 7.34
Use of agents 7.36
Selection and instruction of advocates in the Crown Court 7.38
Victims and witnesses 7.40
External communication and liaison 7.47
Security 7.53
Accommodation 7.57
Equality 7.58
Performance indicators 7.61
Minor traffic cases 7.67
Handling complaints 7.69

CONCLUSIONS, GOOD PRACTICE, SUGGESTIONS AND RECOMMENDATIONS
Conclusions 8.1
Good practice 8.9
Recommendations and suggestions 8.15

KEY STATISTICS 9.1

EXTERNAL CONSULTATION 10.1

ANNEX 1: Charts and tables
ANNEX 2: List of local representatives of criminal justice agencies who assisted in our inspection
ANNEX 3: CPS Inspectorate's Statement of Purpose and Aims

PREFACE

The Crown Prosecution Service Inspectorate (CPSI) has now commenced a new cycle of inspections based on the 42 Area structure adopted by the Crown Prosecution Service (CPS) on 1 April 1999. The CPS remains a national service but operating on a decentralised basis with each Area managed by a Chief Crown Prosecutor (CCP) who enjoys substantial autonomy within the terms of a framework document governing relationships between CPS headquarters and the Areas.

The CPS is also taking forward a programme of further change to give effect to the recommendations contained in the Review of Delay in the Criminal Justice System (the Narey report). These, amongst other changes, introduce a new system for the preparation and submission of files and the prosecution of defendants. Before 1 November 1999, most defendants were charged and then bailed to a court hearing about a month later and were prosecuted by Crown Prosecutors. Under the new system, defendants are bailed to the next available court sitting. Some straightforward cases, involving anticipated guilty pleas, are prosecuted by designated caseworkers. They are not lawyers but experienced caseworkers who have received special training. We discuss the effect of the new arrangements in more detail in our report, where we refer to "the Narey initiative" and "Narey files".

The CPS is also to reorganise itself on a functional, rather than geographical, basis along lines recommended in the Review of the CPS by Sir Iain Glidewell (the Glidewell report). This will involve a transition from the existing Branch structure to one based on Criminal Justice Units (CJUs), which will work in close co-operation with the police to support the majority of the casework in the magistrates' courts, and Trial Units, which will concentrate on cases which are destined for, or have reached, the Crown Court.

These changes alone would have required significant adaptation of the Inspectorate's methodology. The Glidewell Report, however, also contained recommendations that there should be a stronger independent element in the Inspectorate and that it should have a wider remit. The Government, in its response to the Glidewell Report, decided to place the Crown Prosecution Service Inspectorate on an independent statutory basis and the necessary legislation is now before Parliament (The Crown Prosecution Service Inspectorate Bill). The changes within the Inspectorate necessary to adapt it to the revised structure of the CPS, and its own revised role, can be summarised:

(i) Inspections will, in future, be based on a two-year cycle, rather than the four-year cycle of the previous Branch-based inspection programme. This change is specifically at the request of the Director of Public Prosecutions (DPP) and the Chief Executive of the CPS. The new structure of the CPS is unusual in having 42 CCPs, each reporting to the DPP/Chief Executive, with no intermediate tier of management. The inspection process will therefore be a major source of assurance for them as to the quality of casework and overall performance in CPS Areas.

(ii) The inspection process will continue to focus mainly on the quality of casework decision-making and casework handling, but will in future extend to all matters which go to support the casework process. In effect, the Inspectorate will examine all aspects of Area performance basing its work on 12 non-legal themes, in addition to the existing legal themes.

(iii) The Inspectorate will no longer constitute a unit within the CPS itself, but will be a self-contained independent organisation and will assume responsibility for the publication of its own reports.

Notwithstanding these changes, the fundamental purpose of the Inspectorate will remain unchanged: to promote the efficiency and effectiveness of the CPS through a process of inspection and evaluation; the provision of advice; and the identification and promotion of good practice.

There will be a number of consequential changes to the manner in which inspections are conducted – the most obvious being the unit of inspection which is now the CPS Area, rather than the Branch. There will be some increase in staffing to accommodate the shorter inspection cycle. We will also be broadening the range of skills and experience within our teams of inspectors. Three inspectors have recently been recruited to concentrate on the business management aspects of our remit. They bring with them specialist skills in the fields of management, human and financial resources and corporate planning. This report has been written without the benefit of those additional skills, and future reports are likely to cover some of the ground contained within our expanded remit in greater depth.

The Chief Inspector is also developing, at the specific request of the Attorney General, the role of lay inspectors. We seek to bring a new perspective to our work by involving informed members of the public in the inspection process. They will look at the way in which the CPS relates to the public, through its dealings with victims and witnesses, its external communication and liaison, its handling of complaints and its interpretation of the public interest test contained in the Code for Crown Prosecutors. We are grateful in this context for the co-operation we are receiving in developing this initiative from Victim Support, Citizens Advice Bureaux and the National Association for the Care and Resettlement of Offenders.

Another change in our methodology relates to the phases of the inspection process. We shall, in future, visit the relevant CPS Area much earlier in the inspection timetable for a preliminary meeting with the CCP and the Area Business Manager, together with members of their management team. We hope that this will enable us to focus each inspection more accurately on the needs of the particular Area. We have also split our on-site phase into two distinct parts. The first is to meet local representatives of criminal justice agencies and criminal practitioners, as well as representatives of community organisations, in order to gather their informed views about the work of the CPS. During this phase, we will also observe the presentation of cases in court and the functions that support this, including the role of the CPS in relation to victims and witnesses. Following a period of evaluation, the second phase will concentrate on meeting members of the CPS and observing their work in the office.

Even so, the inspection process must continue to evolve to adapt itself to changes both within the CPS and in the wider criminal justice system. Our methodology will need to be kept under review. We would expect our findings to change over the next two years. Those Areas which we visit early in the cycle will be at something of a disadvantage in that the extensive change process will in effect still be in progress. Towards the end of the cycle, we would expect Areas to have "bedded in" to a much greater extent to the new 42 Area CPS structure, and to the proposed system of working within functional rather than geographical units. Our reports will retain a common approach, but we shall endeavour to ensure that they accurately reflect the different characteristics to be found within the CPS Areas in terms of size, makeup (metropolitan or rural) and the nature of the cases being handled. Each report will address issues of ongoing general concern and relevance – for example, the handling of cases involving offences of particular sensitivity or with aggravating features such as child abuse or racially motivated offences. We will also consider diversity issues generally and the operation of youth justice.

In our reports we will comment on good practice and make suggestions or recommendations where performance needs to be improved. The distinction between recommendations and suggestions lies in the degree of priority that the Inspectorate considers should attach to the proposals, with those matters meriting highest priority forming the basis of recommendations.

INTRODUCTION

1.1 This is the Crown Prosecution Service Inspectorate's (CPSI) report about CPS Gloucestershire, and is the third of the new series of inspections conducted by the Crown Prosecution Service Inspectorate following the reorganisation of the Crown Prosecution Service (CPS) in April 1999.

1.2 The CPSI inspected the Gloucestershire Branch in November 1997. We will frequently compare our findings then with our findings during this inspection, and comment on progress which has been made, or otherwise. We will refer to the previous report (Report 8/97) throughout as the 1997 Branch report.

1.3 CPS Gloucestershire serves the area covered by the Gloucestershire Constabulary. It has its office at Gloucester. On 20 March 2000 it employed the equivalent of 42.1 full-time staff: the Chief Crown Prosecutor (CCP) and 15.4 other prosecutors; the Area Business Manager (ABM); two designated caseworkers (DCWs); 17.3 caseworkers; and 5.4 administrative staff.

1.4 The Area comprises two teams. The magistrates' courts team (10.6 prosecutors, two DCWs and 7.9 caseworkers) is responsible for the conduct of prosecutions in the magistrates' courts in Gloucestershire; the Crown Court team (4.8 prosecutors and 9.4 caseworkers) is responsible for the majority of the Area's Crown Court cases.

1.5 The inspection team comprised three legal inspectors, one of whom undertook the role of business management inspector, and one casework inspector.

1.6 A lay inspector, Mr Peter Ellis who was nominated by the Citizens' Advice Bureau, assisted the team. The lay inspector assisted, in particular, with the public interest element of casework decisions, external communication, the handling of complaints and the treatment of witnesses and victims. He examined a number of files, including those that had been discontinued in the public interest and those that had been the subject of complaints from members of the public. He also visited some courts and had the opportunity to speak to some witnesses after they had concluded giving their evidence.

1.7 The lay inspector was able to provide a valuable contribution to the inspection teams findings by providing a different viewpoint on these important areas of CPS activity. The views and findings of the lay inspector are reflected within the body of the report. He gave his time on a purely voluntary basis, and the Chief Inspector is grateful for the effort and assistance he provided in undertaking this inspection.

1.8 The team of inspectors visited the Area between 20 March and 24 March 2000, and 3 April and 7 April 2000. During these periods we observed advocates in the magistrates' courts at Cheltenham, Cirencester, Coleford (Forest of Dean), Gloucester, Stow and Stroud, and in the youth court at Cheltenham. We also observed advocates in the Crown Court sitting at Gloucester.

THE INSPECTION

2.1 In the year ending 31 March 2000, the Area dealt with 15,967 defendants in the magistrates' courts and 975 defendants in the Crown Court. In a further 601 cases, advice was given to the police before charge.

2.2 The inspection team examined a total of 293 cases, ranging from those where an acquittal was directed by the judge, through to those where the prosecution discontinued proceedings, to those where the defendant pleaded guilty. The team interviewed members of staff in the Area and local practitioners in criminal law and representatives of the criminal justice agencies that directly affect, or are affected by, the quality of casework decisions taken in the Area and its performance. A list of those representatives from whom we received comments is at the end of this report.

2.3 In 1986, when the CPS was created, Gloucestershire was combined with Wiltshire as one CPS Area. The headquarters were in Chippenham, Wiltshire, with Gloucestershire forming a Branch of the Area.

2.4 When the CPS was reorganised in 1993 from 31 Areas to 13 Areas, Gloucestershire became part of CPS Severn/Thames, with headquarters in Droitwich, Worcestershire. Gloucestershire continued to form a Branch within the Area.

2.5 With the latest reorganisation from the 13 Areas to 42 Areas, Gloucestershire became a CPS Area, with its offices in Gloucester. As a result, for the first time Gloucestershire formed a self-contained CPS unit coterminous with an individual police area, namely the Gloucestershire Constabulary. The CPS Area enjoys substantial autonomy and is headed by a CCP designated by the Director of Public Prosecutions (DPP) assisted by Crown Prosecutors, acting under the delegated authority and direction under section 1, Prosecution of Offences Act 1985. The Area works with CPS HQ on the basis of a framework document setting out the respective roles and responsibilities.

2.6 In addition to the transition from Branch to Area, CPS Gloucestershire has also undergone an internal reorganisation, from two teams each covering a geographical part of Gloucestershire, to two functional units, covering magistrates' courts and Crown Court proceedings respectively. This was a necessary step towards implementing the recommendations of the Glidewell Report. During the same period it has had to deal with the introduction of the Narey initiative.

2.7 During the course of our inspection we considered how the Area is coping with the changes, and what effect they are having on the quality of the Area's casework and casework decision-making processes.

2.8 CPS Gloucestershire, the magistrates' courts and the police service were all striving to achieve efficiencies and to meet their own targets, and we examined how this impacted upon the Area's ability to deal effectively with its casework.

2.9 We set out our findings in relation to casework by reference to its four different aspects: pre-charge advice (chapter 3); review (chapter 4); case preparation (chapter 5); and case presentation (chapter 6).

2.10 Overall, we found that the majority of decisions made by prosecutors were correct. However, there was a tendency to let cases drift through the system, with effective action only being taken at a late stage. This has led to a very high number of ineffective summary trials, with the result that unnecessary resources are expended. Additionally, we are concerned about various aspects of the handling of cases as they progress through both the magistrates' courts and Crown Court. We examine in this report the extent to which this is due to inefficient systems within the Area, and the extent to which the working practices of other criminal justice agencies influences it.

2.11 CPS Gloucestershire has a high proportion of experienced staff in post. Turnover of staff is low, and activity based costings indicate that the Area is more than adequately resourced. We were therefore disappointed to find that there were a number of significant weaknesses in the standard of casework. There was delay in the provision of pre-charge advice to police. Fast track cases were not always reviewed effectively, and other cases were sometimes reviewed late. Too often, the correct charge was only identified at a late stage, and this contributed to a high level of cracked (ineffective on the day) trials. Poor record keeping meant that we were unable to establish the true discontinuance rate. We were concerned about a number of decisions to drop cases which reflected a lack of resilience or an inability to identify viable alternative charges. The proportion of cases committed to the Crown Court is not high, either compared to the national average, or in relation to numbers of prosecutors or caseworkers. The Area has achieved significant improvements in the timeliness of instructing counsel, but at the expense of the quality of the substance of those instructions and of the indictments drafted. The duties of disclosure have been undertaken superficially in the past, although we were pleased to note a new drive to improve matters in conjunction with the police. There have not, apparently, been any custody time limit failures, but the system had weaknesses in relation to calculations of critical dates, and there was a lack of understanding of the statutory provisions.

2.12 These are serious concerns, although they need to be viewed in the context of some indicators of good performance, for instance lower levels of adverse decisions in the magistrates' courts and the Crown Court compared to national averages. The new Crown Court team should enable prosecutors and caseworkers to achieve more cohesive working and much higher standards of review and preparation of committals, particularly when the DCWs are undertaking their full role in the magistrates' courts.

2.13 Our report presents an overall view of the Area's performance. We saw some individual weaknesses adversely counterbalancing the good work of many. Whilst not the whole story by any means, the CCP and Prosecution Team Leaders (PTLs) will want to target their monitoring in order to remedy this and to build upon the commitment of the majority of staff and their desire and ability to produce quality work.

2.14 The Area's senior managers have a clear view of the higher standard of casework which is achievable. Good communication with staff about the steps to be taken to gain improvements in both quality and job satisfaction will facilitate the process. We have commended the work of the Area in a number of respects, and make recommendations and suggestions to help the Area achieve the aims of senior managers and staff.

PROVIDING ADVICE

Quality of advice

3.1 Most pre-charge advice files are divided equally between prosecutors by the PTL on the magistrates' courts team. The remainder, which relate to allegations made against police officers are divided equally between the CCP, the PTL on the Crown Court team, and one other prosecutor.

3.2 We were told that the police consider that the standard of advice given is high. We considered that the advice given in nine of the ten cases we examined correctly applied the evidential and public interest tests in the Code for Crown Prosecutors (the Code).

3.3 In the tenth case we endorsed the decision to prosecute the defendant for a public order offence, but considered that he should also have been prosecuted for a linked offence of theft. The prosecutor had concluded incorrectly that the evidence amounted to attempted theft only, and that it did not merit prosecution.

3.4 All ten advices were typed, and nine gave full reasons for the advice given. However, in one advice case, which involved allegations of rape and harassment giving rise to difficult issues, the prosecutor gave no reasons for the advice and did not deal with the issues. Such an approach inevitably creates doubt whether the case had been analysed with sufficient intellectual rigour.

3.5 We also saw forms confirming advice which had been given verbally at police stations or on the telephone. Whilst we cannot comment on the appropriateness of the advice given, they appeared to deal with the issues and gave reasons for the advice given.

3.6 We saw two cases (not in the file sample) during our inspection where we were concerned with the advice given. Each involved a fatal road traffic accident, and advice had been given that the appropriate offence was driving without due care and attention, rather than the more serious offence of causing death by dangerous driving. We considered that the advice was unduly cautious. We had the opportunity to examine one case in detail and we considered that there was evidence to prosecute for the more serious offence. The case has been reconsidered since our inspection and following advice from counsel a decision has been made to proceed on an offence of causing death by dangerous driving. In the other case the Area is proceeding on the existing charge, again in the light of advice from counsel. This illustrates the difficulty of decision-making in such cases, and we were told of instances in the past of juries acquitting defendants of the more serious charge which had perhaps influenced the local decision-making.

3.7 In the 1997 Branch report, we made a recommendation that there should be monitoring of the quality of advice cases before they were sent to the police, in order to ensure that they met the required standard. A system of monitoring was introduced, but it has since been stopped.

3.8 The PTLs now see some cases where the advice has been to prosecute, when presenting cases in the magistrates' courts. However, they do not see any advices to take no further action. Some targetted monitoring should be considered. It need not be extensive given the overall satisfactory quality of the advice.

3.9 We recommend that the CCP and PTLs should effectively monitor the advice given by prosecutors to the police to ensure that the quality of advice is maintained at a high level.

Timeliness of advice

3.10 In the ten advice cases that we examined, eight were provided outside the CPS target of 14 days from request. The late advices varied from 28 to 137 days, with the average time taken being 62.1 days.

3.11 One of the eight cases took 63 days, in part because it took one month to register the file and pass it to the reviewing prosecutor.

3.12 Six of the remaining late advices involved allegations made against police officers ("police complaints"), with the average time taken being 86.3 days. It is important that all advices are dealt with promptly, in order to avoid delay. It is equally important in police complaints cases, even where the evidential issues are difficult to resolve, that advice is given in a reasonable time.

3.13 We acknowledge that the timeliness figures were adversely effected by the fact that the Area was dealing with a large number of allegations against police officers during the period covered by our sample, and that three of the cases were from a police force that the Area no longer advises (see paragraph 3.18). However, that does not justify the excessive delay.

3.14 Area procedures require advice cases to be given a ten-day action date so that cases where advice has not been given can be brought to prosecutors' attention. This is not happening in practice, and so no action is being taken to ensure that advices are dealt with promptly.

3.15 We recommend that the PTLs should implement an effective system to ensure that advice is provided to the police within 14 days (in all save the most substantial cases).

Advice from counsel

3.16 We were told that it is very rare for advice to be sought from counsel pre-charge. We were told of one or two cases where this had occurred, but we did not see any examples, nor any cases which we considered merited pre-charge advice.

Appropriateness of requests for advice

3.17 In the year ending 31 March 2000 the proportion of advice cases dealt with by the Area was 3.6%, which is similar to the national rate of 3.7%. In the past the proportion had been higher.

3.18 The Area deals with requests for advice in police complaints cases outside the Gloucestershire Constabulary. The Area was dealing with all such cases from one police force, and half the cases from another force. This was disproportionate, and so the Area now deals only with police complaints cases from one police force. The Area's advice rate has fallen markedly following this change.

3.19 There is no formal service level agreement (SLA) with the police covering the type of case and quality of file to be referred to the Area for advice. However, all advice files have to be approved by a police file authoriser.

3.20 All advice files we looked at were appropriately submitted, but we were told by members of staff that the police submit some cases for advice where they could have made the decision themselves.

3.21 It is important that only appropriate requests for advice are made, in order to ensure that Area resources are not expended unnecessarily. The CCP is aware of this, and intends to take steps to that effect. He will no doubt consider whether there is a need for a formal SLA with the police.

Recording of informal advice

3.22 Prosecutors attend police premises to review Narey files and are available to give advice to police officers in other cases after they have completed their review work. They use a carbonated form to record any advice given, providing copies to the police. The CPS copy is kept in a folder, and numbers are recorded in the monthly performance indicators (PIs).

3.23 We have commented in previous reports about the necessity of recording such advice, and the reasons for it. We believe this intrinsically improves the quality of the advice tendered, and is then available to link to any ensuing prosecution file. Additionally, it will ensure the accuracy of PIs. We are pleased to note that prosecutors are complying with the above system, and commend their efforts.

3.24 Sometimes police officers telephone prosecutors for advice. We were told that not all these are recorded. Prosecutors should complete records of all telephone advices as they do for police station advices.

REVIEWING CASES

Quality of review decisions

4.1 Under the Prosecution of Offences Act 1985 the CPS is required to review every case it deals with in accordance with the Code. It must establish whether there is sufficient evidence for a realistic prospect of conviction, and whether it is in the public interest to prosecute.

4.2 We examined the quality of the review decision in a random sample of 100 files, covering cases that proceeded in the magistrates' courts, the youth courts and the Crown Court. We consider that the evidential test was properly applied in 99 cases.

4.3 We considered that the public interest test had been properly applied in all relevant cases in the random sample. However, we saw cases (not in our formal sample) where prosecutors appeared to have confused the two tests. One such instance was an advice case we looked at when considering how the Area handles complaints. The prosecutor had correctly advised the police not to prosecute but, having set out the weakness in the evidence, concluded that it would not be in the public interest to prosecute.

4.4 In another case, which was stopped by the judge at the request of the prosecution, we noted that the prosecutor had suggested that a caution might be appropriate as the evidence was "borderline". The case involved an allegation of indecent assault upon two children. If the evidence was sufficient, it was clearly in the public interest to prosecute rather than caution. We comment further about this case in paragraph 4.73.

4.5 We disagreed with some decisions to discontinue cases on public interest grounds, and we deal with these in more detail later.

4.6 In relation to the application of the evidential test, we disagreed with the decision to proceed in a case involving an allegation of maliciously causing grievous bodily harm. Although the injuries suffered by the victim were severe, there was evidence to show that the defendant was acting in self-defence. The reviewing prosecutor had correctly identified the issue and had written to the police suggesting that the case be discontinued. The police did not agree and the prosecutor allowed the case to proceed to trial in the Crown Court, despite continuing reservations. The defendant was acquitted.

4.7 In other cases, although we did not disagree with the decision to proceed, there was no effective review. In a case where the defendant had been charged by the police with robbery, the reviewing prosecutor had correctly identified that the charge was not correct, and that more appropriate charges would be burglary/theft and assault. However, the prosecutor did not change the charge and the defendant was committed to the Crown Court for trial on the robbery charge. It was only following counsel's advice that the indictment was amended.

4.8 In another case involving an allegation of causing grievous bodily harm with intent, the reviewing prosecutor should have sought further information about the victim's injuries. This was only done on counsel's advice, after the case had been committed to the Crown Court. As a result the charge was reduced to one of assault occasioning actual bodily harm.

4.9 In all three cases there was no effective review. In two of them the prosecutor had identified the issues, but had failed to take appropriate action. In the third, the prosecutor had failed to appreciate the necessity to clarify the evidence.

4.10 It is essential that prosecutors review cases effectively, taking any appropriate action at the earliest opportunity.

4.11 Area managers are aware that there is a tendency to let cases drift and are tackling the problem by allocating the Narey early administrative hearing courts to four of the more experienced prosecutors, who then cover the same court each week. It is hoped that they will take timely effective action where appropriate.

4.12 We are pleased that the Area is taking steps to improve the quality of review. However, despite this action, we remain concerned about the lack of effective review.

4.13 We recommend that prosecutors should review cases effectively and expeditiously; and that the CCP and PTLs should effectively monitor initial and continuing review decisions.

Timeliness of review

4.14 We found instances of very late review in some of the files we examined. The majority of the sample related to cases commenced before the Narey procedures were adopted. Some cases were not reviewed until after the first date of hearing; others only after the third date of hearing; some after a not guilty plea had been entered; and two cases not until the day of the summary trial, when they were terminated.

4.15 Following the implementation of Part III of the Crime and Disorder Act 1998 (which gave effect to the Narey procedures), the majority of files involving charges are reviewed by prosecutors the day before the first hearing date. This ensures timeliness of initial review, and we noted the decision to allocate them to four experienced prosecutors. Care will need to be taken to ensure that appropriate ongoing review is undertaken in those cases which are adjourned.

Selection of the appropriate charge and charging standards

4.16 Police charges required amendment in 26 of the 100 cases we examined, and in 14 they were appropriately amended at the earliest opportunity.

4.17 Seven of the 26 cases were Crown Court cases where the indictment had to be amended. The original police charges were incorrect, and prosecutors had not taken steps to amend them at the appropriate time. This meant that in all seven cases defendants were committed for trial on the wrong charges, and the indictments had to be amended after they had been lodged. These cases reveal a lack of timely effective review.

4.18 The CPS and the police nationally have agreed charging standards for assaults, public order offences and some driving offences, to ensure a consistent approach to levels of charging.

4.19 Prosecutors eventually followed the appropriate charging standard in most cases, but we came across a number of instances where this was done late, giving the impression of a willingness to accept pleas close to or on the trial date.

Mode of trial

4.20 Prosecutors make good decisions about whether cases should be tried in the Crown Court or the magistrates' court. We agreed with the prosecutor's decision in 57 out of 59 cases, and we were told by a member of another criminal justice agency that prosecutors generally deal well with mode of trial issues.

4.21 We expressed concern about the quality of prosecutors' decisions in relation to representations to be made on mode of trial in the 1997 report, and made a recommendation that the Branch should monitor them. We are pleased to note that the quality of decisions is now improved.

4.22 Some concern was expressed internally about the quality of the information given by prosecutors to assist magistrates in determining which is the appropriate court to deal with sentence following a plea of guilty, and the CCP and the PTLs will wish to satisfy themselves that prosecutors are providing magistrates with sufficient information.

Bail

4.23 We were told by representatives of local criminal justice agencies that prosecutors make good, independent, decisions in relation to whether or not it is appropriate to make an application for a defendant to be remanded in custody or on conditional bail. Our findings confirm this, and we are pleased to record that we agreed with the decision in all 29 relevant cases.

Youth justice and persistent young offenders

4.24 Youth justice has a high priority within the criminal justice system, and CPS Gloucestershire is aware of this.

4.25 Some prosecutors are trained youth specialists. One of these prosecutors has been nominated as the youth co-ordinator, and he is the Area representative on the Youth Strategy Group. He plans to undertake the training of all members of staff, in order to ensure that they are aware of the priority to be accorded to cases involving youth offenders.

4.26 The government has set targets to halve the time between arrest and sentence for persistent young offenders from an average of 142 days to 71 days. The CPS and other criminal justice agencies recognise that this can only be achieved by all the appropriate agencies working together in an integrated manner.

4.27 All of the local criminal justice agencies have agreed an action plan for achieving an improvement in the time taken to deal with persistent young offenders. The police identify relevant cases for the Area, and the magistrates and their clerks endeavour to ensure that they are given priority.

4.28 Although the Area co-ordinator keeps a list of all cases involving persistent young offenders, they are not monitored, and there is no system to ensure that they are given priority.

4.29 The average time for dealing with persistent young offenders nationally in the year 1999 was 108 days; in Gloucestershire it was 119 days. These figures obviously reflect the performance of all the criminal justice agencies, and not just that of the CPS.

4.30 The performance in Gloucestershire has improved over the course of the year as for the first six months the average time taken for dealing with persistent young offenders was 124 days, but its average time is still well short of the government's target. We consider that the introduction of a system to ensure that all relevant files are identified and that they are accorded appropriate priority is essential if the Area is to contribute to achieving timely finalisation of these cases in Gloucestershire.

4.31 We recommend that the CCP and PTLs should introduce a system to ensure (i) that files relating to persistent young offenders are specifically identified; and (ii) that they are given appropriate priority.

Fast-track and short bail date cases

4.32 Part III of the Crime and Disorder Act 1998 enabled new procedures to be introduced designed to significantly reduce the delay and cost in criminal cases.

4.33 In most cases where a guilty plea is anticipated, adult defendants are bailed to the next convenient court, called an early first hearing (EFH), with a view to having the case resolved there and then. These cases can be reviewed and presented by CPS prosecutors who are not qualified lawyers. They are designated by the Director of Public Prosecutions to undertake this task, under the provisions of section 53, Crime and Disorder Act 1998 and they are referred to as designated caseworkers (DCWs).

4.34 In all other cases, the defendant is bailed to an early administrative hearing (EAH), where all parties seek to deal with issues to enable the case to proceed expeditiously. Only Crown Prosecutors (qualified lawyers) can deal with these cases.

4.35 The Area has two DCWs, but has not yet had the opportunity to deploy them effectively.

4.36 One of the DCWs is responsible for conducting cases in the Gloucester Magistrates' Court. She has only recently been designated, and, at the time of the inspection, had not appeared in court to prosecute cases. We were told that it is anticipated that in the Gloucester Magistrates' Court, a limited number of courts will be arranged which contain cases all of which the DCW can prosecute.

4.37 The other DCW is responsible for conducting cases in the Cheltenham Magistrates' Court. She was designated in November 1999 and has presented cases in court since then. Unfortunately, because the court at Cheltenham does not list courts containing only cases that the DCW can prosecute, the DCW usually finds herself prosecuting some cases in a list, alongside a Crown Prosecutor, or is allocated a courtroom only during the course of the court sitting.

4.38 The Area often, therefore, has two prosecutors covering one courtroom; this defeats the purpose of the legislation which was to free up Crown Prosecutors to deal with other essential work. We comment further about the difficulties that CPS Gloucestershire faces as a result of the magistrates' courts' listing practices in chapter 6.

4.39 In other respects the implementation of the Narey initiative has had a beneficial effect on the workload of the magistrates' court team. There is less work to be undertaken after court, and court lists are smaller. This should enable prosecutors to have more time to undertake other work, such as preparing for summary trials effectively.

Discontinuance

4.40 The Area's own statistics showed that it had discontinued 161 cases and had a discontinuance rate of 15.6% in December 1999, compared with the national average of 12.1%. This was the third highest rate of the 42 CPS Areas.

4.41 We examined 110 cases that were stopped by the prosecution in the magistrates' courts during December 1999, to ascertain the reasons for discontinuance and to find out whether the police were consulted about, and agreed with, the decision.

4.42 Seventy-eight cases (70.9%) were withdrawn at court, and in nine (8.2%), the prosecution offered no evidence. Only 23 cases (20.9%) were formally discontinued by notice under section 23, Prosecution of Offences Act 1985.

4.43 The police were consulted regarding discontinuance in 77 of the cases (70%). They were not consulted in 25 cases (22.7%). In four cases (3.6%) consultation was not necessary, and we were unable to determine whether it took place in another four. The police objected to discontinuance in six cases.

4.44 We could not determine the reason for discontinuing 15 out of the 110 cases.

4.45 Thirty-seven cases (40%) were discontinued because they were unable to proceed. Sixteen were not ready; in 13 the victims withdrew or retracted their statements; in six driving documents were produced at court; and in two cases the victim failed to attend unexpectedly.

4.46 Twenty-nine cases (30%) were discontinued due to insufficient evidence. Twelve cases had identification problems; ten had an essential element of the offence missing; six had conflicts of evidence and one case had unreliable witnesses.

4.47 Twenty-nine cases (30%) were discontinued for public interest reasons. In 11 the defendant had accepted a caution. In ten only a small or nominal penalty was likely. Of the remaining cases, the defendant accepted an alternative of attending a driving course in three; two cases were considered to be genuine mistakes or misunderstandings; in two cases the defendant was ill; and in one case the loss or harm caused was considered to be minor.

4.48 Because of CPS Gloucestershire's high discontinuance rate we requested all 161 discontinued files recorded on their PI records in December 1999. We never received all of these, or a satisfactory reconciliation of the figures.

4.49 Out of the 100 files initially sent to us, 23 were not actually discontinued, withdrawn or dropped files. In fact the correct outcomes had been recorded on the Area's computer system. No reason has been given to us for their inclusion in the sample.

4.50 Subsequently, the Area was unable to supply 51 out of the 161 cases discontinued in December 1999. This discloses a substantial error rate in relation to its discontinued cases; its true extent is unclear because of the files which, apparently, could not be found. We tried to analyse the PI records, and found other errors in the recording of case outcomes.

4.51 The police were using comparative figures, and these showed a much lower discontinuance rate than the Area's PIs.

4.52 It is essential that the Area takes action to establish accurate records and performance indicators about its discontinued cases. Without this there remains scope for misunderstanding the Area's performance, and the discontinuance of cases without the possibility of appropriate management checks.

4.53 Poor prosecutor endorsements and variations in the level of understanding and training of the staff responsible for recording the cases finalisations on the computerised case tracking system are possible causes. The CCP has already started to check cases which have been discontinued and this will help to establish the true extent of discontinuance. We make a recommendation about this at paragraph 4.64.

The quality of decisions to discontinue

4.54 We examined 25 discontinued cases in order to assess whether the Code tests had been correctly applied. We disagreed with the decision to drop four cases.

4.55 One involved allegations of indecent assault, where there were difficulties in proving that the assaults had been committed in circumstances of indecency. At the very least we consider that the case could properly have been pursued on charges of common assault. The prosecutor did not appear to have considered this course of action.

4.56 Two of the four cases were discontinued because the prosecutor concluded that it was not in the public interest to prosecute. Neither case involved serious allegations, but we considered that other factors pointed towards prosecution.

4.57 In the fourth case, a defendant was cautioned for an offence of attempted dishonest handling. It was not appropriate to have agreed a caution as he had previous convictions for offences of dishonesty. In reality the decision seemed to be made because the evidence was weak, rather than because it was not in the public interest to prosecute.

4.58 There were two cases in our sample of 25 where, although we agreed with the decision to discontinue, we disagreed that it was on public interest grounds. In both cases, we considered that there was insufficient evidence to provide a realistic prospect of conviction.

4.59 These last three cases appear to confuse the two tests under the Code. Prosecutors must apply the Code, and correctly differentiate between the two tests.

4.60 In another case in the sample the decision to discontinue was premature. The case involved an allegation of witness intimidation, where the victim alleged that the defendant against whom he was a witness had threatened and assaulted him. The victim subsequently indicated that he did not wish to attend court as he felt intimidated by the defendant, and the case was dropped without any consideration of any of the alternative options.

4.61 The offence of witness intimidation was introduced in order to deal with cases such as this. We are very disappointed that the prosecutor did not appear to consider whether it was appropriate to make an application to read the victim's statement to the court under the provisions of section 23, Criminal Justice Act 1988 (see paragraph 5.38). We were also surprised that a prosecutor on an earlier occasion did not object to the defendant's bail.

4.62 Overall, we were concerned about the decision, or the decision-making process, in seven cases out of our sample of 25. We were, therefore, pleased to note that the Area has been undertaking some monitoring of discontinued cases, and that the CCP is identifying whether there are any lessons to be learned. In view of our findings about the decisions and the PI records the CCP will wish to continue his monitoring.

4.63 Two of the cases we have dealt with in this section did not have any endorsement of the reasons for the cases being terminated. There were also others in our sample where it was difficult to ascertain the reasons for termination.

4.64 We recommend that the CCP should monitor discontinued cases, to ensure that reasons for discontinuance are recorded on files; reasons for discontinuance are analysed; the quality of decision-making is monitored; and such cases are finalised correctly in the Area's performance indicators.

Adverse cases

4.65 The CPS categorises four types of finding as adverse:

* trials stopped by the magistrates at the close of the prosecution case (otherwise referred to as "No Case to Answer")

* cases in which the defendant is discharged after a contested committal ("Discharged Committal")

* judge ordered acquittals; and

* judge directed acquittals.

4.66 The CPS, other agencies in the criminal justice system, and the media all pay considerable attention to cases which suggest fault in the CPS decision-making process. We have conducted a thematic review of adverse cases (Thematic Report 1/1999). In each Area inspection we examine such cases from a three month period to assess whether these case outcomes are indictors of poor decision-making, the result of unforeseeable developments or the consequence of something entirely different. We check for wrongly categorised cases. In our section on learning from experience we consider how staff learn from these cases and what action the Area takes to improve its performance.

Adverse cases in the magistrates' courts

4.67 CPS Gloucestershire has a low rate of adverse cases in the magistrates' courts. There were no cases recorded where the magistrates declined to commit the defendant to the Crown Court because of insufficient evidence during the year ending 31 March 2000. There were only five cases in which the magistrates stopped the case at the conclusion of the prosecution evidence on the basis that there was no case to answer. This is less than 0.1% of the Area's caseload, compared with a national average of 0.2%.

4.68 None of the adverse cases fell within the period of the file sample. However, the Area submitted one case as being a discharged committal. The defendant had been discharged because the committal papers had not been prepared, and not because of insufficient evidence. This is another example of the misunderstanding of case outcomes which we deal with in "Performance Indicators" in paragraph 7.61.

Adverse cases in the Crown Court

4.69 In the year ending 31 March 2000, 61 cases were not proceeded with in the Crown Court. This represents 11.8% of the Area's Crown Court caseload, which is lower than the national average of 12.8%. The great majority of these were stopped by the judge at the request of the prosecution before the trial started (judge ordered acquittals). We examined 15 cases in this category, and agreed with the decision to proceed in 13.

4.70 In one of the cases we disagreed with, the reviewing prosecutor had identified the weaknesses in the case, but had nevertheless allowed the defendant to be committed for trial. We have already referred to this case in paragraph 4.4, when considering the application by prosecutors of the public interest test. In the second case, involving allegations against five defendants, the prosecutor had failed to analyse the evidence against each one. There was insufficient evidence against two of the defendants.

4.71 Coversely, we disagreed with the decision to drop two of the 15 cases. Although neither case was overwhelming there was sufficient evidence to provide a realistic prospect of conviction. However, the instructions to counsel did not cover the issues and the weaknesses adequately, and both cases were dropped following counsel's advice.

4.72 In a further case, counsel advised that a case should be dropped, and appears to have based the advice on the presumption that the case was to be presented in a particular way. In our view, there were alternative ways of presenting the case. These should have been explored in the instructions to counsel or in conference: they were not.

4.73 In all three of the cases referred to in the preceding paragraphs, there was an apparent willingness to drop cases if counsel so advised, despite the circumstances remaining the same. If the issues had been fully covered in the instructions to counsel the advice to drop the cases might not have been given. We explore further the inadequacy of instructions to counsel in paragraphs 5.43 - 5.47.

4.74 We have commented on the lack of effective, timely, review throughout the report. In Crown Court cases, this is in part the result of the system used to allocate cases. All committals are allocated by the PTL himself, on occasions in batches. Some of the cases are not reviewed before the EAH, and some are not seen by the Crown Court team prosecutors until after the full file is received. The system can put pressure on staff, result in late review and create the potential for a backlog.

4.75 We recommend that the PTL should ensure cases are allocated promptly, in order to allow prosecutors adequate time to review cases effectively.

Judge directed acquittals

4.76 In the year ending 31 March 2000, there were nine cases in which the judge directed an acquittal in the Crown Court after the trial had started. This represents 2% of the Area's Crown Court caseload, which is lower than the national average of 2.3%.

4.77 We have concerns about whether the Area is correctly categorising judge directed acquittals as all three cases we examined had been submitted as judge ordered acquittals.

4.78 We agreed with the initial decision to proceed in all three cases. In two the prosecution offered no further evidence after the judge ordered disclosure of sensitive material. In one of these cases, the existence of the sensitive material only became known to the CPS during the course of the trial. We deal with our concerns about this in paragraph 5.24.

4.79 In the third case an essential witness failed to attend, and the prosecution had to offer no further evidence.

Foreseeability of adverse cases

4.80 Continuing a case, particularly in the Crown Court, that ends in an adverse finding involves considerable expenditure of resources. It causes unnecessary anxiety to victims, witnesses and defendants. Burdens are placed on criminal justice agencies, and the progress of more deserving cases can be delayed. It is essential that where the failure is foreseeable, by which we mean it is obvious or ought to have been obvious to any prosecutor, appropriate action is taken at the earliest opportunity to remedy the weakness in the case, or if this is not possible to discontinue the case.

4.81 The Inspectorate's thematic review of adverse cases found that in 31.8% of cases examined the adverse finding was foreseeable. We found that CPS Gloucestershire has a similar proportion of forseeable adverse findings, with the result of four out of 13 cases being forseeable.

4.82 The failure might not have been forseeable at the initial review in any of the four cases, but it was at the time they were being reviewed for committal. This is another example of the lack of effective review of cases.

Learning from experience

4.83 We expressed concern in the 1997 Branch report that failed case reports were not completed in all appropriate cases, and we are pleased to note that they are now completed in all adverse cases in the Crown Court.

4.84 Some of the failed case reports we saw, however, were inaccurate. For example, one (see paragraph 4.73) gave the fact that the co-defendants had pleaded guilty as the reason the case was dropped, rather than the fact that there was insufficient evidence against two defendants. In another case the report was completed for the wrong defendant. In a third case, where we concluded that the wrong decision had been made to prosecute (see paragraph 4.73) the case report indicated that CPS action could not have changed the outcome.

4.85 If reports do not accurately analyse the reasons for cases failing, and do not acknowledge fault on the part of the Area where appropriate, the Area will not be in a position to learn from experience.

4.86 The CCP sees all failed case reports. He is aware that some of them are inaccurate, and draws such instances to the prosecutor's attention. He raises bad decision-making with the individual concerned, and circulates anything of wider concern to the Area. We think that there would be added value if he analysed the results in order to establish whether there are any trends, and the Area would then have the opportunity to learn full lessons from its adverse cases.

4.87 We recommend that the CCP and PTLs should ensure that accurate adverse case reports are completed in all appropriate cases, and that they are used in order that lessons can be learned.

4.88 Additionally, there is no system for passing on information about successful cases. We made a recommendation in the 1997 report that the Branch should introduce systems to encourage the effective dissemination of information to prosecutors, both from successful and failed cases. A system was introduced to ensure that prosecutors were given information in their cases, but it no longer appears to be operating. The AMT will wish to consider re-introducing such a system.

4.89 When the Area was part of CPS Severn/Thames a monthly summary of significant cases and legal information was produced and circulated by a Special Casework Lawyer. The Area has not continued with this initiative, although one member of staff circulates copies of law reports from the newspapers.

4.90 CPS national casework bulletins are circulated to members of staff. The Area used to run regular sessions on new legislation, but these have ceased due to time constraints.

4.91 It is important that prosecutors are kept up-to-date on legal developments, and that the Area implements any new practices and procedures, in order to ensure that correct review decisions are made and casework processes are effective and efficient.

4.92 We recommend that the CCP ensures that prosecutors and caseworkers receive information about finalised cases and that up-to-date information about developments in the criminal law is available to prosecutors.

Review endorsements

4.93 Overall, the standard of review endorsements is poor. Many of the cases we examined had no more than a tick to show whether or not the case had been accepted for prosecution, together with the prosecutor's initials and the date of review.

4.94 We found that review endorsements dealt with the evidential considerations in 34 out of 100 cases, and the public interest issues in only 24 of the same cases. They dealt with the mode of trial considerations in 16 out of 54 relevant cases.

4.95 We have commented adversely about the standard of review endorsements in many of our previous reports, but in our experience these figures are particularly poor.

4.96 When Narey courts were first introduced, the Area was using a police pro-forma to record review, rather than using a CPS file jacket. The pro-forma has little space to endorse review considerations, and has perhaps acted as a disincentive to prosecutors to make review endorsements.

4.97 We are pleased to note that the Area is now using CPS file jackets for EAH cases. The CCP will wish to consider how to ensure that EFH cases also contain a proper review endorsement. It may not be necessary to use CPS file jackets for these cases, many of which are concluded on the first date of hearing. However, the possibility of agreeing with the police a redesign of their pro-forma, or the introduction of a CPS pro-forma could be considered.

4.98 It is essential that prosecutors record their reviews properly. A good review endorsement should deal with decisions taken, identify the issues in the case, and comment on whether those issues have been addressed. Such endorsements should help to focus prosecutors' minds, and thereby ensure a better, more effective, review. They are also essential in order to assist others looking at the file, and to assist caseworkers in drafting instructions to counsel.

4.99 Senior managers told us that prosecutors will have objectives set to make comprehensive review endorsements in their forward job plans, and we fully support this.

4.100 We recommend that prosecutors and caseworkers should make full records on the files of initial and continuing reviews, decisions and reasons for those decisions.

PREPARING CASES

Advance information

5.1 In 50 out of 54 relevant cases that we examined, appropriate material had been served on the defence as advance information. We could not find a record of what had been served in a further four cases.

5.2 The CPS target for the service of advance information is within seven days of the receipt of the file and notification of the identity of the defence solicitor. The Area's target for the year ending 31 March 2000 was 80%. It more than achieved this, serving timely advance information in 82.6% of its cases and our sample confirmed this.

5.3 This is an impressive achievement, and a marked improvement on its performance for the previous year.

5.4 Advance information is now served at the first date of hearing in all Narey cases. Area staff were copying the material, but the police have now agreed to undertake this.

5.5 We were told that victims' addresses are sometimes included in the material supplied by way of advance information. We noted one instance (not in the file sample) where this had occurred. Victims' and witnesses' personal details should not be supplied to the defendant without particular cause, and staff will wish to ensure that it does not occur.

5.6 The Area receives many requests for advance information in cases in which the law does not require the prosecution to provide it. Area policy is that disclosure should be made whenever it is requested and we found that prosecutors complied with this.

Handling and service of unused material

5.7 Area staff have made considerable efforts to procure improvement in the quality of the schedules provided by the police. Training sessions have been provided to the criminal investigations department, and there are plans to provide training to uniformed officers. Prosecutors are now referring incorrect schedules back to the police, and the details are being collated centrally. We were impressed by these efforts.

5.8 Area staff told us that there has been an improvement in the quality of schedules. Many of the files in our sample pre-dated the steps that have been taken, and we acknowledge that an examination of current files could produce better figures. Although we did not see many examples of more detailed schedules in files we saw whilst on-site, we did note instances of prosecutors returning inadequate schedules to the police.

5.9 The police provided unused material schedules on time in 81 out of 86 relevant cases in the magistrates' court trials and Crown Court file sample. They did not provide schedules in five cases. We noted that the usual forms were based on a version which has been superseded sometime ago in the national Manual of Guidance agreed between the police and the CPS.

5.10 The police had not completed the schedule correctly in 47 cases. Most of the incorrect schedules contained insufficient detail to enable the prosecutor to take an informed decision whether any material should be disclosed to the defence, and there were few instances in our file sample of the prosecutor requesting further information.

5.11 The unused material disclosure schedule had been completed by the prosecutor in 68 of the 81 cases where a schedule was supplied. Area prosecutors endorse the schedule with their opinion on primary disclosure. This is an approach we commended in our review of the disclosure of unused material, which was published in March 2000 (Thematic Report 2/2000). We were pleased to note that the Area practice of endorsement was introduced prior to the publication of the report.

5.12 The practice of making an endorsement on the schedule should focus the prosecutor's mind on disclosure issues. However, prosecutors cannot make informed decisions about disclosure on the basis of schedules that lack detail, and therefore they should not endorse such schedules.

5.13 The endorsements made by prosecutors do not include the reasoning behind their decisions. We recommended in our thematic report that prosecutors should record their reasons for their decisions upon a record sheet. Doing so not only helps focus prosecutors' minds on the issues, but also ensures that colleagues are in a position to deal with any queries.

5.14 Material relating to disclosure is not kept in a separate folder, and we found it difficult to ascertain what had been supplied, and what action staff had taken. In some instances there were no copies of relevant documents, although correspondence indicated that they had been present at some stage. We recommended in our thematic report that all material should be kept in a separate folder, commenting that poor file housekeeping prevents the prosecution from proving its compliance with the disclosure provisions.

5.15 We recommend that the AMT introduces the use of an unused material record sheet, and that prosecutors at each relevant stage record the reasons for their decisions on disclosure upon the sheet; and that all material relating to disclosure is kept in a separate unused material folder.

5.16 Primary disclosure was undertaken in 70 cases. It was not done in 11 cases. It was provided timeously in 60 cases, and the timing was unclear in ten cases.

5.17 Eight of the 11 cases where primary disclosure was not made were summary trials. Some were of a minor nature, but some involved offences of violence and dishonesty. Four of the six cases where a schedule was not provided by the police were also summary trials.

5.18 The disclosure provisions apply in all summary cases where a defendant has entered a not guilty plea. Although the penalties which can be imposed for offences tried in the magistrates' courts are lower than those at the Crown Court, this does not mean that summary cases are any less important, or that miscarriages of justice cannot occur.

5.19 Most prosecutors we spoke to seemed alert to their disclosure obligations. Nevertheless it is essential that prosecutors indicate compliance with their duties of disclosure on the file in all appropriate cases. In order to put themselves in a position to do so, prosecutors should request missing schedules from the police, and should deal with those that are sent by police. The fact that the defence do not raise the point does not relieve the prosecution of its duties.

5.20 Prosecutors undertook secondary disclosure in five out of 33 cases in which a defence statement was served. It was not provided in 14 cases. We could not ascertain the position in the remaining cases.

5.21 We are very concerned at the failure to supply secondary disclosure in so many cases. The provisions of the Criminal Procedure and Investigations Act 1996 are quite clear: prosecutors are under a duty to make secondary disclosure in all cases where a defence statement is provided.

5.22 We recommend that the CCP and PTLs be rigorous in requiring prosecutors to comply with their duty to make primary and secondary disclosure in all appropriate cases.

Handling of sensitive material

5.23 We could see that the police should have provided a sensitive material schedule in 14 cases in the magistrates' court trials and Crown Court file sample. They did not provide a schedule in four of those cases.

5.24 We have also referred to a case where the police did not reveal the existence of sensitive material to the Area, and which resulted in a judge directed acquittal (see paragraph 4.81). The police are under a duty to reveal the existence of sensitive material to the prosecutor. The CCP will wish to satisfy himself that the police are complying with their duties in relation to sensitive material in all appropriate cases.

5.25 We found that prosecutors had endorsed the sensitive material schedule in only four out of the ten cases where a schedule was provided. There was evidence of the prosecutor considering the sensitive material schedule in only one out of seven cases where a defence statement had been received.

5.26 Again, we must emphasise that while prosecutors seemed clear as to their responsibilities, it is essential that sensitive unused material is, and is shown to be, handled properly. Prosecutors should consider whether items on the schedule are sensitive, whether they need to be disclosed, or whether a public interest application should be made; and they should record their reasoning and decisions.

5.27 We recommend that the CCP should take steps to ensure that prosecutors record that they have considered sensitive material, their decisions and the reasons for those decisions.

Summary trial preparation

5.28 We were told by representatives of the other criminal justice agencies that too many cases which are set down for summary trial result in either adjournments or in pleas being accepted to lesser offences on the day of trial ("cracked trials"). In many instances, the pleas ultimately accepted have been offered at an earlier stage in the proceedings, and should have been accepted before the cases were set down for trial.

5.29 We saw two instances in our sample of 25 discontinued cases where the decision to drop the case was made on the day of trial. We also saw one case, not part of our file sample, where the defendant was bound over to keep the peace on the day of trial, the offer to be bound over having been made two months earlier. In another case a plea was accepted to a substantially less serious offence when a whole day had been set aside for trial of a dangerous driving case.

5.30 The Area has a system whereby summary trial files should be checked three weeks before the date of hearing to ensure that all necessary administrative tasks have been completed, and that the case is ready for trial. Although we saw evidence of the system being used in the cases we examined, we have doubts that it results in effective continuous review. This occurred in only 13 out of 35 relevant cases in our file sample. If the checking system was being used effectively, there should be fewer cracked trials which are due to the fault of the CPS.

5.31 Cracked trials involve unnecessary resources being expended, not only by the Area but also by other criminal justice agencies. It is important, therefore, that prosecutors review summary trials effectively, in order to ensure that appropriate decisions to accept pleas are made as soon as possible, and certainly before the day of trial.

5.32 We recommend that the CCP and PTL should ensure that summary trials are reviewed appropriately and prepared expeditiously, with a view to reducing the number of cracked trials.

5.33 Representatives of the other criminal justice agencies were critical of the timeliness of witness warning. Area staff told us that late warning of witnesses had been a major problem, and that a new system was introduced in the middle of 1999. The system requires the advocate to identify which witnesses need to be warned immediately after a trial date has been set, and then to pass the file to a caseworker to prepare the necessary notification to the police.

5.34 The system worked well until a member of staff left at the end of the year, when a backlog of witness warnings developed. The AMT is aware of the problem and has re-deployed staff, in order to improve timeliness.

5.35 The Area advised the police of the witnesses required to attend a trial to give evidence timeously in 33 out of 36 cases in our sample. The cases we examined presumably date from a period when the system was working well.

5.36 We found that section 9, Criminal Justice Act 1967 (enabling a witness' statement to be read in the witness' absence) was used in 26 out of 28 appropriate cases.

5.37 Section 10 of the same Act enables agreed facts to be presented to the court, without the need to call witnesses. We found that a prosecutor had used these provisions in one case in our sample.

5.38 The provisions of section 23, Criminal Justice Act 1988, subject to certain conditions, enable a witness' statement to be read to the court if the witness is out of the country or too ill or too frightened to attend court. We saw only one case where it would have been appropriate to consider use of these provisions, and the prosecutor failed to do so. We dealt with this case in paragraphs 4.60 – 4.61.

5.39 We deal with the Area's treatment of witnesses in more detail in paragraphs 7.40 – 7.46.

Preparation of committals

5.40 Virtually all committals are now handled within the Crown Court team. The vast majority are prepared by caseworkers, under the supervision of a prosecutor.

5.41 We were told by representatives of other criminal justice agencies that committal papers are often not served on the defence within the timescales set out in CPS national guidelines. This accords with our file examination, where we found that committal service was timely in 20 out of 41 cases where we could determine timeliness.

5.42 It does not, however, accord with the Area's PIs for the year ending 31 March 2000, which show that it achieved timely preparation in 79.3% of its cases (against a target of 70%). Our file sample was partly drawn from an earlier period, and we are aware that the Area has made considerable efforts to improve the timeliness of committal preparation.

Instructions to counsel

5.43 We examined the instructions given to counsel in 50 cases. The overall quality was disappointing. In only 20 cases was there an accurate summary of the case, with instructions identifying and addressing relevant issues. The relationship between instructing solicitor and counsel is essentially a partnership, and the Bar will not be encouraged to deliver a high quality service by the receipt of instructions which are so incomplete.

5.44 The instructions contained information about the acceptability of alternative pleas in only five of the 14 relevant cases. Information on this issue is always important, but particularly so where prosecutors are not regularly in attendance at the Crown Court.

5.45 The overall quality of instructions to counsel in our sample were inadequate in 24 out of the 50 cases. In contrast, they were very good in one case involving a serious assault, where difficult issues had been fully canvassed. We suspect that the desire to achieve timely preparation of committals has led to a decrease in quality of instructions to counsel. We recognise pressures and time constraints upon prosecutors and caseworkers, but poor quality instructions to counsel, in turn, can lead to more adverse cases in the Crown Court (see paragraphs 4.74 – 4.76).

5.46 We made a recommendation in the 1997 Branch report that greater effort should be made to include the issues in the case and the acceptability of pleas in instructions to counsel. As a result of this recommendation, caseworkers and prosecutors were reminded of the need to include this information in instructions, and the PTLs monitored one set of instructions per prosecutor per month. This monitoring is no longer carried out. We do not believe in monitoring for the sake of monitoring, but it is clearly necessary in this instance.

5.47 We recommend that the CCP and PTL should monitor the content of instructions to counsel to ensure that they contain an accurate summary of the case, identify and address the issues and, where applicable, address the acceptability of pleas.

5.48 In the 12 months ending 31 March 2000, the Area delivered the instructions to counsel within 14 days of the committal or transfer to the Crown Court (21 days in respect of some more complex cases) in 75.7% of cases. This is below the Area's target of 84% but a big improvement on the previous year.

5.49 We found that delivery of instructions to counsel was timely in 35 out of 44 cases (79.1%) where we could ascertain timeliness.

5.50 It is important that instructions are delivered to counsel in sufficient time to enable him or her to consider the papers. Timely delivery should ensure that if counsel has any concerns about the case he or she can discuss them with the reviewing prosecutor in sufficient time for any necessary remedial action to be taken. It should also help to prevent hasty decisions to drop cases, as discussed in paragraphs 4.74 – 4.76.

Quality of indictments

5.51 We examined indictments in 50 cases and were again disappointed by the quality of work. The indictment had been lodged with the Crown Court within the appropriate time guidelines in 42 cases. We could not ascertain when it was lodged in the remaining eight cases.

5.52 Amendments were made to the indictment in 16 out of the 50 cases. We are critical of the need to make amendments in 11 of the 16 cases.

5.53 Seven of the 11 amendments were made because the indictment contained wrong charges, or in order to reduce the level of charge.

5.54 In two cases the counts were bad for duplicity, and in another two charges were included on one indictment, when there should have been two indictments.

5.55 We made a recommendation in the 1997 report that the Branch should introduce a system for monitoring the quality of indictments.

5.56 As a result of the recommendation, the Branch introduced a monitoring system, which measured the number of amendments and the reasons for them. The system was stopped in 1998, due to other priorities and because the Crown Court manager did not consider there to be a continuing problem. There clearly is one.

5.57 We suggest that the CCP ensures the system for monitoring indictments is re-introduced.

The role of the CPS in the Crown Court

5.58 The Area sends cases to the Crown Court sitting at Gloucester and Bristol.

5.59 Two prosecutors in CPS Gloucestershire are HCAs with the right to prosecute cases for the CPS in the Crown Court. One of them is the CCP who has decided not to exercise his rights.

5.60 The other is the PTL in the Crown Court team. He undertook some advocacy in the Crown Court between April and October 1999, but then stopped because of other commitments. Since February 2000, he has re-commenced appearing in the Crown Court, dealing with PDHs, committals for sentence and appeals. We were told that it is intended to increase this role. He also attends the Crown Court to deal with applications for bail.

5.61 The HCA does not remain at the Crown Court after dealing with his own cases. However, we noted that he made himself available to deal with issues raised by counsel dealing with other cases listed for PDH, and was able to assist caseworkers.

5.62 Prosecutors from the Crown Court team also attend the Crown Court to deal with applications for bail. They do not, however, stay at the Crown Court after they have dealt with their bail applications, as they wish to carry out work at the office.

5.63 This means that prosecutors are losing the opportunity to broaden their experience of the Crown Court, and with it the possibility of improving their judgement and decision-making.

5.64 Apart from the benefits to the prosecutors themselves, there are other advantages to the Area as a whole. In the report on the thematic review of advocacy and case presentation, we drew attention to the further potential benefit of prosecutors attending the Crown Court, in that they would be able to take advantage of their presence at the Crown Court to assess the performance of counsel whom they see.

5.65 We suggest that prosecutors remain at the Crown Court after dealing with bail applications, wherever practicable, to provide assistance to caseworkers and instructions to counsel when pleas are tendered or problems arise.

5.66 There is a risk of prosecutors in the magistrates' courts team becoming isolated from the Crown Court, which does not accord with the change in priority envisaged in the Glidewell Report, of moving the emphasis from the less serious to the more serious cases. The AMT appreciates this risk, and has addressed it by rotation between the two teams, and by maintaining a relatively large number of prosecutors in the Crown Court team for the number of cases the team deals with and they also appear as advocates in the magistrates' courts.

5.67 Caseworkers attend the Crown Court to instruct counsel on average once or twice a week. They usually cover two courtrooms each, although there is one-to-one coverage for PDH courts.

5.68 Caseworkers generally cover courts only while the prosecution case is being presented. As they only attend court once or twice a week, they are unlikely to cover the whole of the prosecution case. Caseworkers do not often cover their own cases. Continuity is therefore virtually absent.

5.69 In order to provide meaningful assistance to counsel, the caseworkers should so far as possible cover their own cases in the Crown Court or have a reasonable degree of familiarity with the papers. Bearing in mind the number and type of cases there are in CPS Gloucestershire per caseworker, we consider that, with proper management, caseworkers should be able to maintain continuous responsibility for the majority of their cases throughout, including the Crown Court trial.

5.70 We suggest that the CCP and PTL develop arrangements so that caseworkers retain responsibility for and manage their own cases throughout, including instructing counsel where feasible.

Plea and directions hearings (PDHs)

5.71 In the file sample, we found the orders made by the judges at PDHs had been complied with in 27 of the 28 relevant cases.

5.72 The directions were complied with in a timely manner in 22 of the 27 cases. In the four of the five cases where compliance was late, the caseworker had initially acted promptly, although follow up action was not taken in two of the four cases, resulting in a delay in one case of over three months. In the fifth case the caseworker did not take action until the day the order was due to be complied with. The order was ultimately complied with almost eight weeks late, and only after the defence had listed the case for mention.

5.73 It is important that orders made at PDHs are complied with timeously, in order to ensure the progress of the case. Caseworkers will wish to ensure that steps are taken to ensure that requests for action are pursued when there is no, or an inadequate, response.

Sensitive and aggravated offences

5.74 Particular care and attention needs to be given to certain types of offence which are regarded as sensitive or aggravated, particularly cases involving child abuse, domestic violence or racially motivated offences, and Area prosecutors are aware of this.

5.75 Most Area prosecutors have attended training in child abuse cases. We examined the review decision in four child abuse cases, and agreed with the decisions in relation to the evidential sufficiency and the public interest in three cases. We disagreed with the initial decision to prosecute the fourth case, which we referred to in paragraph 4.73.

5.76 We also examined the review decision in 12 cases involving domestic violence, and agreed with the decisions in each case.

5.77 The Area is a signatory to a declaration of support, designed to co-ordinate Gloucestershire's response to incidents of domestic violence. One prosecutor acts as the Area co-ordinator and is responsible for liaising with the police domestic violence unit. She is also responsible for monitoring decision-making, and for collating statistics. This is a commendable initiative, but currently there is no system for ensuring that all relevant cases are referred to the co-ordinator. We would like to see her valuable work supported by stronger systems of case management.

5.78 We suggest that the CCP and PTLs introduce a system to ensure that files involving domestic violence are monitored by the Area co-ordinator.

5.79 There are very few racially motivated or racially aggravated offences dealt with by the Area and no general conclusion can therefore be drawn. We examined only one such case in our sample: it had been handled properly and we agreed with the review decision.

5.80 However, we saw another racially aggravated case, which was listed for trial, during the course of our observations in court. The case was not straightforward and involved some difficult issues. We were disappointed to note that there was no review note, and that an application had to be made to amend the charge (it had already been amended on three previous occasions).

5.81 All cases require careful handling, but prosecutors will wish to ensure that they pay particular attention to their handling of such sensitive cases.

5.82 Representatives of another criminal justice agency expressed concern about the Area's handling of racially motivated or aggravated offences in the past, in particular in relation to one "downgrading" of charges. We did not see any cases where this had happened, and are pleased to note that the Area had taken positive action to address this and had issued written instructions that any dropping or downgrading of such cases has to be sanctioned by either the CCP or a PTL.

Custody time limits

5.83 Custody time limit provisions regulate the length of time during which an accused person may be remanded in custody in the preliminary stages of a case. Failure to monitor the time limits, and, where appropriate, to make an application to extend them, may result in a defendant being released on bail who should otherwise remain in custody.

5.84 We examined ten cases which were subject to custody time limits - two had errors in the expiry date calculation. The Area has not has any custody time limit failures, but our examination shows there is room for improvement in the way the custody time limits are calculated and monitored.

5.85 When a case is registered after the first hearing, the administrative staff identify from the prosecutors file endorsement those cases in which the defendant has been remanded in custody. Staff should use the national ready reckoner to calculate the review and expiry dates which are recorded on stickers and placed on the file jacket, index cards and on the CATS computer system. There are variations in practice between the magistrates' court and Crown Court teams. The AMT will wish to consider whether these are justified.

5.86 The custody time limit reckoner was not relied on in some instances with staff calculating the expiry dated manually using a diary. This may have led to the errors which we found in the two cases we refer to next.

5.87 The expiry date was clearly marked on the front of all ten cases examined, but one magistrates' court file had an over calculation of the expiry date by 17 days, and a Crown Court case expiry date had been over calculated by four days.

5.88 The Area displayed the review and the expiry dates on the file jackets of nine out of the ten cases examined. In one case involving multiple defendants it was unclear which defendants were in custody and which had been given bail due to poor file endorsements.

5.89 There was no indication on any of the files examined that the custody time limits were being applied to each charge for each defendant.

5.90 Of the ten files which were provided to us initially for examination, four cases were not subject to custody time limits, as the defendant had pleaded guilty before being put into custody. Effort is wasted by monitoring cases which are not subject to custody time limits. This could indicate a potential training need.

5.91 Three cases had needed custody time limit extensions. All three had the notices sent on time and the new expiry date was clearly displayed on the file.

5.92 We recommend that the CCP reviews the custody time limit systems used in the Area and ensures that the overall system is reliable, properly understood and administered, and that all staff are properly trained in its use.

File endorsements

5.93 The standard of file endorsements is considerably better than the standard of review endorsements (see paragraphs 4.93 – 4.100).

5.94 Court endorsements were satisfactory in 81 out of 100 magistrates' courts files; out-of-court endorsements were satisfactory in 59 out of 66 relevant cases.

5.95 In Crown Court files we found that court endorsements were satisfactory in 47 out of 50 cases, and in respect of out-of-court endorsements in 34 out of 40 relevant cases.

Providing information to the Probation Service for pre-sentence reports

5.96 The CPS has agreed nationally to provide relevant information from its file to the Probation Service where magistrates order a pre-sentence report to be prepared or a defendant is committed to the Crown Court. The information about the offence and the defendant's antecedents is to assist with the preparation of a report to the court.

5.97 In the sample of files we examined we found that in 35 out of 64 cases there was clear evidence that the CPS had provided this information. It was not provided in five cases. We could not ascertain the position in the remaining cases.

5.98 We were told that the relevant information is provided late in some instances. The police have recently agreed to provide an additional copy of the papers in Narey cases, which should enable the Area to provide the relevant information to the Probation Service.

5.99 We suggest that the ABM reviews the Area's arrangements for providing information to the Probation Service, to ensure that it is reliable and the provision of documentation is properly recorded.

PRESENTING CASES

The quality of advocacy in the magistrates' courts

(i) Crown Prosecutors

6.1 The CCP prosecutes cases in the magistrates' courts, although his opportunities to do so have not been as frequent as he would have wished. We think that the presence of the CCP in court as an advocate is highly desirable and hope that he will take full advantage of the opportunities available to him. This will enable him both to represent the CPS in court and to monitor the quality of CPS casework first-hand.

6.2 In the magistrates' courts team, the PTL appears in court twice a week on average, and the prosecutors appear in court on four days a week.

6.3 In the Crown Court team, the PTL has also been prosecuting in the magistrates' courts, but the number of occasions is reducing as he returns to exercising his rights of audience in the Crown Court as an HCA. The other prosecutors in this unit appear in the magistrates' courts on three days a week.

6.4 In addition to assessing advocacy in the 1997 Branch report, CPS Gloucestershire was one of the Areas whose advocacy was observed for the purposes of our thematic review of advocacy and case presentation (Thematic Report 1/2000).

6.5 We did not refer to individual Area findings in our thematic report, but we found that all of the advocates that we were able to observe were satisfactory or, in one or two cases, more than satisfactory.

6.6 During the course of this inspection we were able to observe 15 advocates in the magistrates' courts sitting at Cheltenham, Cirencester, Coleford (Forest of Dean), Gloucester and Stroud and the youth court sitting at Cheltenham. The difficulty which we faced was finding opportunities to observe advocates in courts which were testing their ability, rather than being undemanding and therefore not illustrative of the advocates' skills.

6.7 We were able to observe some advocates dealing with summary trials, although not as many as we would have anticipated seeing from the cases which were listed. A high number of the listed trials were not effective, and we have commented upon the high rate of ineffective and cracked trials at paragraphs 5.28 – 5.32.

6.8 We were pleased to note that the CPS prosecutors attended their courts punctually, usually more than half an hour before the commencement of the court. This enabled them to deal with issues raised by defence advocates or the court clerks.

6.9 Representatives of other criminal justice agencies described the quality of the advocacy of CPS prosecutors as variable, and some were critical of a perceived lack of robustness and involvement in the proceedings. We observed some prosecutors presenting the cases almost as disinterested parties rather than as key players in the proceedings.

6.10 All of the advocates we observed were satisfactory. Four of the advocates were able to demonstrate that they were towards the higher end of this grading; some had only undemanding lists, or were given files from another court at short notice. One or two looked as though they might lack resilience under pressure, and lacked conviction in making representations to the court or in responding to an inappropriate defence application.

6.11 At the two ends of the scale, we were able to observe some advocates who were extremely well prepared and able to deal with all issues, whether raised by the bench or the defence, in a clear and competent manner. Other advocates were less well prepared, which was reflected in the overall standard of their case presentation. Some had to place great reliance on the file when presenting the cases, reading directly from statements or other documents.

6.12 We appreciate that advocates have to adopt different styles and approaches for different courts, but it seems that there is a tendency in Gloucestershire for some prosecutors to maintain a re-active, rather than a pro-active, role within the court. We observed proceedings where the prosecutor made only the minimum contribution to the proceedings, sometimes referring to themselves as 'being instructed' to make certain applications, rather than being responsible themselves for the conduct of the case. The overall impression was then that the court clerk or the defence advocates dominated these proceedings.

6.13 Part of this approach may flow from the listing practices in some of the courts. There are occasions in all large court centres when cases are transferred from one courtroom to another because, for example, a trial has been adjourned in one courtroom and that particular courtroom is able to deal with other work.

6.14 The result of this is that the prosecutor from whom the files are taken has spent unnecessary time in preparing those cases, and the prosecutor receiving the files may not have had an opportunity to prepare those cases properly. It is essential therefore that only appropriate cases are transferred. To ensure that this happens, the process should be the subject of discussion between the court clerks and the prosecutors.

6.15 In some of the courts where we observed cases being transferred, the process appeared to be the subject of discussion only between the court clerk and the usher, and the prosecutor played no part, nor attempted to play any part, in the decision as to which cases should be transferred.

6.16 The subsequent prosecution of those cases reflected, in many instances, the lack of preparation or knowledge of the case that can be inevitable in these instances. Prosecutors read directly from statements when presenting the case and had to search through the file to deal with relatively straightforward issues raised by the bench.

6.17 We commented on the adverse effects of transferring cases in our thematic review, and where it has to occur, we are of the view that the prosecutors should ensure that they play an appropriate part in the process. The prosecutors in both court rooms should be actively involved in the decision as to which of their cases are appropriate for transfer.

6.18 We suggest that prosecutors, where it is necessary to transfer cases from one court room to another, should be involved in the decision as to which cases should be transferred.

6.19 We were particularly concerned to observe in one court, on more than one occasion, that cases were transferred immediately before the commencement of the court. In one instance this was because a trial had not proceeded, but it had been known the day before that this would occur. Cases were not transferred into this courtroom until ten minutes before the court commenced sitting. In another instance cases were transferred, again ten minutes before the commencement of the court, for no apparent reason other than, apparently, to balance the weight of the lists.

6.20 The subsequent advocacy was a reflection of the lack of preparation time available to the prosecutors. We do not underestimate the adverse effect of certain listing practices on the quality of case presentation.

6.21 The Glidewell Report (Recommendations 21 and 22) concluded that greater CPS involvement in listing was necessary for the more effective and efficient conduct of work in the magistrates' courts. It recommended that the CPS should be involved in the process of listing cases which do not follow the fast-track procedure. We commented in our thematic report that this seems eminently sensible.

6.22 The Government accepted the recommendations, and the Trials Issues Group Reducing Delays Sub-Group promulgated a national protocol in October 1999, the first objective of which is to encourage co-operation between criminal justice agencies in the matter of list building, and is addressed to "those who can contribute to the efficiency of the listing process by means of appropriate local agreements and effective flows of information".

6.23 In our view, where the criminal justice agencies involved adopt an holistic or consultative approach to these issues, the protocol can be the basis for real improvement in the system as a whole. We therefore adopt a recommendation contained in our thematic report.

6.24 We recommend that the CCP urgently enters into discussion about court listing with the Justices' Chief Executive, Justices' Clerks and Chairmen of the Bench with a view to reaching listing practices which reflect the true spirit of Glidewell, Recommendations 21 and 22.

6.25 The CCP will want to build upon the examples of good advocacy we noted, and through effective monitoring, feedback, mentoring and seminars develop the culture of professional preparation and presentation to support high standards of advocacy at all times.

(ii) designated caseworkers

6.26 The Area has two DCWs. One of the DCWs is responsible for conducting cases in the Cheltenham Magistrates' Court, and the other in the Gloucester Magistrates' Court.

6.27 The Gloucester DCW has only recently been designated, and, at the time of the inspection, had not appeared in court to prosecute cases.

6.28 The Cheltenham DCW was designated in November 1999 and has presented cases in court since then. We have already referred in paragraph 4.37 to the fact that the court at Cheltenham does not list courts containing only cases that the DCW can prosecute. As a result, the DCW usually finds herself prosecuting some cases in a list, alongside a Crown Prosecutor, or is allocated a courtroom only during the course of the court sitting. Because of this, we were unable to observe the DCW conducting prosecutions, although representatives of other criminal justice agencies all made positive comments about the standard of the DCW's advocacy and case presentation.

6.29 We did see the DCW waiting in a court, having been told that there would be cases available for her to prosecute in the afternoon. It appears that CPS Gloucestershire is unable to make full use of this DCW, and this lends greater weight to our recommendation at paragraph 6.24.

(iii) agents

6.30 We did not see any cases being conducted by agents during the course of our inspection. Representatives of other criminal justice agencies told us that the standard of advocacy of some of the agents could be less than satisfactory. We address this issue in more detail at paragraphs 6.40-6.42.

6.31 The AMT were aware of these criticisms, and junior counsel from a single set of chambers are now used as agents. This is designed to increase the opportunities for the agents to receive sufficient experience in the conduct of prosecutions in the magistrates' courts, with a view to improving the overall standard of their case presentation. We have commended elsewhere that key papers are sent to agents two days in advance.

The quality of advocacy in the Crown Court

(i) Crown Prosecutors

6.32 As we have already commented, one HCA re-commenced appearing in the Crown Court in February 2000, and deals with PDHs, committals for sentence and appeals. We were told that it is intended to increase this role.

6.33 We observed the HCA appearing in the Crown Court, dealing with PDH cases, as well as a bail application before a judge in chambers. In these cases, the HCA was fluent, confident and clearly well prepared.

6.34 All of the prosecutors in the Area used to deal with bail applications in the Crown Court, but these are now generally dealt with by prosecutors from the Crown Court team. We were told that the prosecutors are well prepared and present cases to a high standard when dealing with these matters.

(ii) counsel

6.35 We observed four counsel instructed by CPS Gloucestershire in the Crown Court sitting at Gloucester. Again we experienced difficulties in finding opportunities to observe contested trials.

6.36 We were told that the standard of performance of counsel was variable. The counsel we observed were all competent and satisfactory. In one case, prosecuting counsel was well prepared and confident, presenting the prosecution case in a clear and articulate manner. This counsel appeared to be more competent and able than counsel instructed by the defence. In another case, the opposite was true.

Monitoring advocacy standards

6.37 We made a recommendation in the 1997 Branch report, that CPS advocates (and agents should be monitored. Prosecutors were monitored twice in the six months following the publication of the report, but it was then decided that such close monitoring was no longer necessary. Although most advocates have been seen in court once or twice in the past 12 months, this has usually occurred when a PTL has finished a court and can take the opportunity to observe prosecutors in another court room. There is no structured monitoring system in place.

6.38 Monitoring of advocacy is always important, and was the subject of a recommendation in our thematic review. It is particularly important where there are concerns about the performance of some advocates by representatives of other criminal justice agencies. It is also important that the prosecutors are given feedback about the monitoring so that they have the opportunity to benefit from the process.

6.39 We suggest that the CCP ensures that there is regular and effective monitoring of the performance of CPS advocates in court, and that immediate feedback is given to the prosecutor concerned.

6.40 We have referred to the current method of selecting agents to appear on behalf of the CPS in the magistrates' courts at paragraph 6.30. As a result of this four particular junior counsel are generally used as agents, although other agents are used on occasion. The magistrates' courts team PTL has been able to observe and monitor each of the four agents referred to above, although we are not aware of any feedback being given to the agents about their performance, or of monitoring of agents who are less frequently used.

6.41 In view of the criticism which we received, it would be appropriate to have a structured monitoring system, if only to establish whether the criticism is based on poor performance on the part of the agents, or poor case preparation on the part of the CPS.

6.42 We suggest that the CCP ensures that there is structured and effective monitoring of the performance of agents at court, with suitable arrangements for feedback to be given as soon as possible thereafter.

6.43 The Area has no formal system for monitoring the quality of counsel in the Crown Court, although we were told that caseworkers report any particularly good or poor performance to the Crown Court team manager. Otherwise, Area managers rely upon feedback from representatives from other agencies.

6.44 We recommended in our thematic review that Areas should adopt formal monitoring systems in relation to the performance of counsel on the basis that it is in the interests of the CPS to secure the services of competent counsel, as well as being in the public interest and the wider interests of justice. This view was echoed by the National Audit Office in their report, "Criminal Justice: Working Together" (HC 29 Session 1999-00), published on 1 December 1999. We understand that the CPS is currently seeking to agree with the Bar revised arrangements for the selection of advocates in the Crown Court. These arrangements include the extent of monitoring to be undertaken.

6.45 We suggest that the AMT adopts a structured monitoring system so that they can be satisfied that they are obtaining objective and reliable information about the performance of counsel in the Crown Court.

Returned briefs

6.46 Where counsel originally instructed is unable to conduct the case, different counsel has to be instructed, and this is referred to as a 'returned brief'.

6.47 We found that only 11 of the 39 counsel originally instructed appeared to prosecute at the trial. We also found that in only eight out of 19 cases the counsel who had conducted a trial resulting in a conviction appeared at the adjourned sentencing hearing.

6.48 In our experience this is a relatively high rate of returned briefs. We appreciate that there are a number of factors that can combine to bring this about, for instance court listing practices and late change of plea by defendants. We were told, however, that where there is a late return this sometimes manifests itself with prosecuting counsel seeming less well prepared than his adversary.

6.49 We also found a file in our sample, where a new counsel appeared for the prosecution at the trial, and took the view that there was not a realistic prospect of conviction, and that the case should be stopped. In our view that decision was wrong, and, in any event, was in direct conflict with the apparent view of the counsel originally instructed, who had prepared the case ready for the trial to proceed. Late and inconsistent decisions invite criticism from other agencies.

6.50 The CCP will wish to ensure that the standard of advocacy in the Crown Court is not adversely affected by the rate of returned briefs, and, if necessary, take appropriate action to rectify any shortcoming.

MANAGEMENT AND OPERATIONAL ISSUES

Management of the Area

7.1 The CCP and ABM work in close partnership. They are comfortable in their roles, the CCP having determined to concentrate on leadership and casework roles, and the ABM taking responsibility for resource management, most performance management and some liaison with other agencies. The CCP undertakes strong casework responsibilities and advocacy, as envisaged under the Glidewell recommendations. He undertakes a significant amount of consultancy and advisory work on cases, and attends Court reasonably frequently as an advocate.

7.2 The CCP has retained responsibility for a particularly significant case arising from another area. This is a legacy of the period when senior lawyers around the country undertook responsibility for some serious cases rather than CPS Central Casework (as it then was). We are pleased to see a CCP playing a significant role in what is "national casework". The negative side of this is that for a long period this has taken in excess of 20% of his time (and in some weeks substantially more) and it sometimes interferes with his role within his own Area. We are therefore pleased to know that the CCP is negotiating with the Director of Casework to pass the day to day handling of the case to Casework Directorate and to retain a strategic and less time-consuming role.

7.3 The AMT should meet on a monthly basis, but there has recently been a long gap, and we noted that on almost every occasion at least one member provided apologies for absence. We consider that the AMT has not yet developed into the cohesive body which the Area needs. We fully recognise that the Area needs a period of stability, having had five different heads in the last five years (four Branch Crown Prosecutors and now a new Chief Crown Prosecutor). The Area is going through a transitional phase whilst it "beds in" to its new structure. The pace of change requires sensitive regulation by the AMT. The AMT needs to develop a common view of the need for improvement in various aspects of casework and for all members to recognise the need to accelerate the pace of those improvements.

7.4 We recommend that the AMT should hold meetings at a minimum every month, with the expectation that all members will make it a top priority, with a view to ensuring that the Area is managed effectively and efficiently and that objectives within the Area Business Plan are achieved.

7.5 The Area Business Plan (ABP) for 1999/2000 identifies and reflects CPS and common criminal justice system aims and objectives. It deals with some local issues, such as crime and disorder strategies. However, whilst the plan contains the national CPS objectives, including that dealing with the care and treatment of

witnesses, it does not set out either strategies or detailed steps to take this forward. We were pleased to see that the Area had set key priorities for 1999-2000 and that these were well displayed within the office, but we consider that the steps necessary to carry these priorities forward should be set out within the ABP, or a supporting document.

7.6 The AMT also needs to review the ABP regularly to ensure that it remains a relevant "living" document. Achievements and failures need to be discussed with staff in team meetings.

7.7 The Area has established communication with other criminal justice agencies at appropriate levels. Nevertheless, we consider that there is a considerable distance to go before it can be said that there is joined up working between the different criminal justice agencies. At the moment there is a degree of blame culture and recrimination between the CPS, police and magistrates' courts. Joint performance management with police does not appear to have led to significant improvements in the quality of police files or in the quality of review and preparation by the CPS. Similarly, liaison with the Magistrates' Courts Service does not appear to have led to the full implementation of Narey initiatives designed to reduce delays in the criminal justice system and to facilitate better working practices between the agencies. We hope that the CCP will work closely with the chief officers of the other criminal justice agencies to ensure that levels of performance are monitored, agreed and actions taken to ensure improvements.

7.8 We found there to be a level of stress and pressure of work upon staff which, although very real, was not justified by the nature or amount of casework. This in part has a historical basis with the Area gradually moving down towards its more realistic resourcing needs compared to other CPS Areas, but also reflects lack of joined up working by the various criminal justice agencies and the increased pressures on them all to be quicker and more efficient. We are pleased to note that joint performance management with the police is to be re-started and managed actively, and that negotiation is to continue with the magistrates' courts about listing arrangements.

Internal communication

7.9 AMT members communicate with staff individually and we are pleased to note that the CCP calls occasional office meetings. This is to keep staff informed of changes or current events within the Service. Whitley Council meetings, which involve discussions between management and the trade union side, are regular, but an internal consultative group has ceased to meet and instead reliance is placed on a staff "soap box" which is conducted through internal e-mail. This is not well used and the CCP will want to ensure that there is strong communication with staff. Area staff appear reasonably relaxed about this, but in view of potential changes there is a positive need to maintain an effective flow of information and to ensure that communication flows both ways.

7.10 We recommend that team meetings and/or staff sounding or consultative meetings should be held in order to ensure that there is more effective communication between all members of staff.

Structure and organisation

7.11 There remains an element of transition about the present structure and organisation of the Area. The former teams have been changed into two functional units – one servicing the magistrates' court and one the Crown Court. Advocates are rostered to undertake regular courts and the Crown Court team is relatively large in size, with a result that its prosecutors attend the magistrates' courts fairly frequently.

7.12 As we have said before, both prosecutors and caseworkers are working under a pressure well beyond that which the Areas casework statistics and outcomes suggest is required. Clear management action is needed to reduce excessive expenditure of effort at certain points in the life of the case. Some of this is duplicated effort, some is caused by lack of early decision making, and some is caused by problems flowing from the relationship with other agencies. In the Crown Court the individual caseload of prosecutors and caseworkers is modest, and so each should have their own clear caseload or portfolio of cases which they should be able to manage throughout.

7.13 The standard of case management is poor. We have made recommendations to address this elsewhere in the report, but this is something else which in our view is adding to extra effort having to be undertaken by both prosecutors and caseworkers. For instance, we came across many files with correspondence not kept in clear date order and the contents disorganised, even where cases were set up for summary trial. We have commended aspects of file management in other Areas and the CCP will want to learn lessons from those Areas.

7.14 We found there to be a lack of rigour in summary trial preparation. There was no concerted drive, or system, to ensure that cases were prepared well for trial. This in turn leads to poor quality casework, greater pressure on the advocate to ensure the case is in good order, and no doubt leads to a higher cracked trial rate than should be the case.

Case management

7.15 We did not come across large numbers of particularly sensitive, serious or complex cases, nor others of such large scale that there would need to be particularly demanding systems in place to support casework. Case management plans are used in larger cases to plan work that is needed to be done and to help monitor expenditure on counsel. We were told that there were two in existence but even these were not produced and shown to us.

7.16 Sensitive or aggravated offences, including child abuse cases, domestic violence cases and racist incidents were not particularly well recorded. This reduces the impact of these systems in ensuring that such cases are dealt with without delay.

7.17 We recommend that the AMT ensures that all key logs are accurately maintained and used effectively to assist in case management and the prevention of delay.

7.18 The CPS has set targets in critical areas of work, for instance in relation to the response to complaints and the provision of advice to police. In these areas monitoring has not been effective. We deal with these issues elsewhere in the report in the appropriate sections.

7.19 We have been critical of some of the Area systems which support casework. An additional issue is the fact there is no up-to-date Area Operating Manual, the current one dating back to 1995 with an update in 1996. The AMT will want to address this.

Management of financial resources

7.20 The Area budget is kept under continual check by the ABM who reports to the AMT upon it. The Area had overspent on certain running costs, but overall had planned an underspend for 1999/2000. In the event, there was a small overspend on running costs. Closer monitoring of the final month's expenditure, in conjunction with the Service Centre, might have avoided this.

7.21 The level of fees paid to counsel is below the national average. This is in line with the absence of a significant number of cases which are complex and serious. As we have mentioned whilst there were said to be only two cases involving large scale counsel fees, the use of case management plans could nevertheless be improved.

7.22 The Area should introduce a system whereby a log is kept of any case management plans which are produced so that the case can be identified and traced. The CCP and ABM will wish to ensure that the plans are accurately completed and maintained in all appropriate cases.

7.23 We retain some concerns that the fees for some serious sexual assault cases were being kept artificially low. This tends to end up with the selected counsel not in the event appearing in the case and, if considerably less experienced counsel is finally instructed, the possibility of the prosecution being "out gunned" at court. The manager of the Crown Court section will want to keep a close check on this.

7.24 We were pleased to be told that services, goods, travel and subsistence allowances and other expenses are all monitored to ensure value for money and that there is regular review of these by the AMT.

7.25 The Area has an SLA with the CPS Service Centre in Droitwich to ensure that its ancillary financial work is undertaken expeditiously. A move is underway to change the service centre to that of the family group of Areas which constitutes the South West and managers hope that this will be more effective for the Area.

Management of human of resources

Investors in people

7.26 The Area, in line with the rest of the CPS, wishes to obtain recognition as an "Investor in People" and is seeking accreditation from the National Recognition Panel of Investors in People UK at the present time. The Area will want to ensure that it takes active steps to prepare for this. Whether or not successful, the Area will also want to devise an action plan designed to support its aims and intentions in relation to securing such accreditation. (We understand that accreditation was not achieved at first instance.)

Training

7.27 The Area has a high proportion of very experienced staff at most levels. The majority have at least ten years service, and so have accumulated a lot of experience. The AMT is aware of the need to ensure that the staff still have the opportunity to continue to develop. We were pleased to note that the Area had undertaken a full day's training for level A staff and we commend the Area for this initiative.

7.28 Nevertheless the overall training needs have not been identified and there is no Area plan in relation to this. The ABM will want to remedy this for the coming year.

7.29 The new team structure raises issues about developing and maintaining skills, particularly in relation to the Crown Court. A small number of prosecutors are dealing exclusively with Crown Court cases, and with bail applications at that Court. The majority of work undertaken by the prosecutors in the other team relates to proceedings in the magistrates' court. The AMT intends that prosecutors will rotate between these units, but relatively long periods of a tenure are envisaged. Rotation has been planned and undertaken. To do otherwise could lead to de-skilling of a large proportion of prosecutors. Nevertheless the real possibility of magistrates' court lawyers becoming more isolated from the Crown Court remains.

Sickness

7.30 Absence through sickness is not a major feature in the Area. Nevertheless in 1999/2000 the Area lost 7.49 working days per employee through sickness against the national average within the CPS in 1998 of 10.2 working days. This will now be used as baseline from which to measure targets and the Government has set targets of reducing absence through sickness by 20% by 2001, and 30% by 2003. We were told that individual sickness was being managed.

Use of resources

7.31 We have already referred to the feeling of pressure on the part of many staff. This is very real, but did not appear to be justified by the nature or amount of casework. It is an issue which the CCP and ABM will be anxious to address. We found numerous instances of inefficient use of human resources. For instance court listing practices in some magistrates courts did not allow DCWs to work to capacity and relieve lawyers. In other magistrates' courts we saw very short lists in afternoon court sessions.

7.32 Excessive management effort is spent in relation to the allocation of Crown Court cases to both caseworkers and lawyers – this causes delay in cases being prepared for committal, and puts extra pressure upon the individuals to deal with the cases quickly against an approaching deadline. There is a lack of case management by individual caseworkers of their portfolio of cases in conjunction with the lawyer in the case. This could be overcome by giving the caseworker clearer ownership of the file and responsibility for its management and progress from an early stage.

7.33 The Area and police have an e-mail communication system. This was well in advance of much of the rest of the country, but we were told that some difficulties with the system or its software lead to this early major progress being eroded. We were told that lawyers were being prevented from using the word processor facility if the communication was to exceed 6 lines. This appears to us as being somewhat unprogressive when the CPS is trying to move forward with its IT programme. There may be management issues in how quickly certain lawyers are dealing with their casework, but this should be tackled separately.

Forward job plans

7.34 Forward job planning is an essential part of the effective use of human resources. It enables managers to translate national and Area aims and objectives into aims and objectives for individual staff. We were told that appropriate forward job plans were devised for all members of staff at the time of their annual appraisal, and that these were reviewed at least twice a year.

7.35 Appraisals and plans should be with Headquarters by 31 May of the year in question and an indicator of the commitment of an Area to the validity of the process may be the timeliness within which they are sent to Headquarters. CPS Gloucestershire had returned only 55% of their 53 reports by 28 June 1999. The national average was 78% and so the performance of the Area was poor.

Use of agents

7.36 In the magistrates' courts the Area uses counsel from one set of chambers to provide continuity and consistency of attendance. Other agents are occasionally used if necessary. The Area has invited the agents to its office to increase their understanding of office systems. The Area used agents in approximately one out of 12 courts within a five month period, which appeared high to us, and the Area will have to keep a careful check on its expenditure on agents in the coming year.

7.37 Agents usually prosecute trials rather than undertake remand courts. We are pleased to see that the Area supplied agents with the relevant papers two days before the hearing. This is so the individual is well prepared and we commend this practice of sending copies of key documents to agents in good time.

Selection and instruction of advocates in the Crown Court

7.38 In the Crown Court counsel are instructed mainly from Bristol Chambers. We have already referred to the reservation expressed to us about the experience of counsel in some cases involving sexual offences. (See paragraph 7.23). Overall, however, counsel of suitable ability and experience were being instructed.

7.39 We have dealt with the standard of instructions to counsel in paragraphs 5.44 to 5.51. We saw instances of good preparation by counsel, although in one case a returned brief led to a lack of consistency of approach.

Victims and witnesses

7.40 The Area has expressed its aim to offer a better service to victims and witnesses. The various criminal justice agencies agreed principles of witness care, in a local SLA on the standard of witness care in the criminal justice system which took effect from 31 May 1997. Its provisions address a number of issues we have commented upon – for instance the intimidation of witnesses - and prosecuting counsel introducing themselves to witnesses (see paragraph 7.45). The CCP will want to discuss the SLA with staff and external partners in the criminal justice system to ensure that its provisions are understood and followed. This might help to overcome some of the poor conditions we noted for witnesses in relation to waiting rooms at various courts.

7.41 We were pleased to note the Witness Service conducts much of the personal liaison with witnesses at the Crown Court, and it does already contact magistrates' courts if there are vulnerable/frightened witnesses in particular cases. Additionally, court staff were helpful and assisted witnesses at magistrates' courts. CPS prosecutors who we observed also took considerable care to speak to witnesses before the case started, and in one case we observed that relatives of a deceased victim were spoken to by the prosecutor whilst in the magistrates' court.

7.42 Some of this good work can be undermined if there is poor handling of requests for compensation – an issue which victims rightly feel should receive attention and an application made to the court. There is lack of cohesion or clarity between police and CPS as to who does what. We recognise that the speed of the new Narey process for getting cases before the court may have caused some initial problems.

7.43 There is a generally good working relationship with the other key agencies including the Witness Service and Victim Support. We note that the CCP has attended meetings of Victim Support. Active members of the Witness Service shoulder much of the immediate liaison and support role with witnesses at the Crown Court, therefore CPS staff should ensure that they make their position clear to victims and witnesses at court so that victims and witnesses know to whom they may speak to gain authoritative information about the case and its progress.

7.44 We have mentioned that in the magistrates' court we saw some good examples of witness care being undertaken by advocates. Nevertheless, the Area needs to take an active role in relation to reducing the number of cracked trials which occur, some of which are wholly or partially the responsibility of the CPS. These can result in victims and witnesses being warned to attend court unnecessarily. Greater steps should be taken in relation to case preparation to determine with the defence whether a plea of guilty to any offence is to be tendered and is acceptable and thereby avoid the necessity of attendance by the victim and witnesses.

7.45 We were particularly impressed with the awareness of prosecuting counsel in the Crown Court to the needs and treatment of victims and witnesses. We were therefore surprised to read one instance of a complaint in which a victim had not been approached or put at their ease by prosecuting counsel in the Crown Court. We were further concerned by the response to the complaint that prosecuting counsel were discouraged from introducing themselves to victims and witnesses before the trial because of possible allegations of improper discussions with witnesses. There is no such discouragement. The Bar Council's own rules make it clear that there is no impropriety in counsel speaking to victims or witnesses before the trial to introduce himself to the witness, explain the court's procedure and to answer any questions on procedure which the witness may have. The local SLA provides for prosecuting advocates in the Crown Court to attend 30 minutes before the hearing so that they can introduce themselves to witnesses, and this SLA was signed on behalf of the Bar.

7.46 We recommend that the CCP should liaise with representatives of other criminal justice agencies with a view to ensuring that the SLA dealing with all aspects of the treatment of victims and witnesses is implemented.

External communication and liaison

7.47 We have already mentioned the need to establish more productive links with other agencies at Chief Officer level. In some respects, the police and CPS work well together, but there is a degree of blame culture on both sides and we noted an emphasis of blame by the CPS of police in court if files or further evidence was not forthcoming. We hope that the renewed joint performance management will help to accurately reveal the true position in relation to the quality and timeliness of police files so that both services can work together to deal with this. Conversely, we saw some examples of unreasonable/hostile responses by police to reasonable CPS requests.

7.48 The general relationship with Magistrates' Courts Service is good, but at senior level liaison has not led to the implementation of mutually beneficial listing practices. Difficulties for the prosecution caused by the late and regular transfer of cases between court rooms, and the failure of some courts to list cases to facilitate the use of DCWs under the Narey initiatives were striking examples. Conversely poor summary trial preparation by the CPS contributes to the very high cracked trial rate and we were also critical of prosecutors complaining in court about the double listing of trials.

7.49 There is a good relationship with the Crown Court, albeit cases progressed through the system slowly and there needs to be greater drive to improve this. There is a good relationship with the Bar and with defence solicitors. We are reluctant to disturb any local balance, but we saw the odd instance of inappropriate amenability, for instance allowing a defence solicitor to take the prosecution file to read on a gentleman's agreement that he would not examine anything sensitive. We also saw prosecutors agreeing (or not objecting) to defence requests for lengthy adjournment periods. Prosecutors must appreciate that this can undermine a court's attempt to manage cases more effectively. Allowing defence solicitors to make points which should have been resolved before the court sat, when the prosecutor had been clearly in attendance and available, disclose a slight lack robustness within the relationship between prosecutor and defence solicitors.

7.50 The Area has a good working relationship with the Probation Service, but there appears to be some delay in the delivery of pre sentence report packages. The actual delivery of these packages needs to be monitored as we saw some still on files, which may be an indication that they had not always been sent as they should have been.

7.51 We recommend that the CCP adopts a clearer strategy on the focus of external working relations and liaison.

7.52 We were pleased to note positive steps by the CCP to promote the CPS with the local media and local groups. Other members of staff also went out to meet local groups and schools. Because of career progression the position of Area Press and Publicity Officer has recently changed and this would benefit from some period of stability and experience.

Security

7.53 Staff are aware of security issues, including the handling of sensitive material. There were no recorded untoward events in relation to personal safety, but concern was expressed to us, and the ABM will want to address this. Issues within the office which we discussed with the ABM merit a written security policy and guidance, not least so that staff concerns about dealing with individuals outside and inside the office are dealt with. Further thought needs to be given to accessibility by the public. As our lay inspector commented, living in a fortress can create a fortress mentality.

7.54 We saw, and were told, that missing files in court appear to be a regular problem, but there is no missing files register. Sometimes explanations were provided on court lists for advocates about missing files, but sometimes they appeared not to be. The reasons for any files being missing should be resolved to prevent any mutual blame culture.

7.55 We recommend that the AMT implements a rigorous approach to missing files, for instance maintaining a missing files log.

7.56 The office has good facilities, but we found that a clear desk policy was not being adhered to. It is necessary for old files to be sent for long-term storage, or destroyed in accordance with set policies, so that storage rooms are made available for current or recent files to be put into more secure storage.

Accommodation

7.57 The Area has good quality modern office premises with ample space for staff to undertake their work. The premises are generally well regarded by staff, although some had concerns about particular aspects of the open plan situation and working. There did not appear to be any significant problems with the building, save perhaps about the reliability of one of the lifts and staff can take some pride in the quality of their workplace.

Equality

7.58 Gloucestershire has a relatively low ethnic minority population (1.8%). No members of staff are members of an ethnic minority. Although the position has been accepted historically, it is CPS policy that ethnic minorities should be properly represented at all grades in the CPS as a whole and CPS Gloucestershire must address it. This may take some time in view of the low turnover of staff, but the Area is taking steps to ensure that all staff vacancies will be advertised openly and extensively. The CCP has written to a number of ethnic minority groups to increase their awareness of the CPS and its role locally.

7.59 No equal opportunity issues were raised with us, albeit we noted that the management is entirely male and a high proportion of female staff are in lower grades.

7.60 Racial equality and human awareness courses were run last November and there does not appear to be complacency on the part of the local managers.

Performance indicators

7.61 We have already commented in the section dealing with discontinuance about the abnormally large number of those files which either could not be found, or were incorrectly provided to us, or had been given an incorrect case outcome on the computer tracking system. Other inaccuracies included three cases which were presented to us as judge ordered acquittals, but were in fact judge directed acquittals. One case presented to us as a judge ordered acquittal was in fact a jury acquittal. Some nine cases in the random sample were submitted in the incorrect category.

7.62 We were given conflicting information about whether the accuracy of PIs is monitored, although managers told us that some checking was carried out.

7.63 Inaccurate PIs can lead to miscalculations about an Area's resource needs. They also reduce the ability to use them as an effective management tool.

7.64 Area staff told us that they had received no recent training in the recording of PIs. Although the computer system has a menu which provides guidance on PI input, lack of training can increase the likelihood of errors being made.

7.65 We recommend that the AMT should ensure that all appropriate staff receive training in the recording of PIs, to ensure that accurate information is available to assist in the management of the Area.

7.66 Some members of staff have devised a computer programme to assist in the collection and collation of Crown Court case outcomes and PIs. This should also assist managers and caseworkers in case management of Crown Court cases. We commend this initiative, which we hope will be developed further and will be the subject of assessment for wider use in other Areas using the same case tracking system.

Minor traffic cases

7.67 The Area had been a pilot Area for the implementation of procedures dealing with the expeditious handling of certain cases which are mainly minor motoring ones before the magistrates' court. One major aspect is that the CPS receives significant numbers of minor traffic cases which could be dealt with under the provisions of Section 12 of the Magistrates' Courts Act 1980 and which do not necessarily need to be taken over by the CPS if there is a written plea of guilty. In any event, there is guidance that they should not be included in performance indicators, even if the CPS handles them for police at the court, unless they are taken over to prove in absence or on the receipt of a not guilty plea. Because the Area does take responsibility for a large number of these cases, it consequently discontinues a significant number at the request of police, for instance where documents are produced late. Additionally, we noted that the Area has not yet adopted the new provisions of the Magistrates' Courts (Procedure) Act 1998. The whole issue needs addressing by the AMT.

7.68 We recommend that the CCP should liaise with the police and the Magistrates' Courts Service with a view to ensuring that the provisions of the Magistrates' Courts (Procedure) Act 1998 are implemented in a properly structured manner.

Handling of complaints

7.69 The Area went through a period when it had no system to manage the handling of complaints. A system was set up in July 1999, but in our view it is still not fully effective in that delay still seems to occur because some staff do not understand and follow a clear high-priority system. Some responses to complaints were not timely, but on the other hand there was a good open style of response and readiness to accept errors when they had been made.

7.70 Some responses in relation to cases which did not proceed to court, or had not yet been concluded, were too categorical on issues which might well have been, or were to be, contested. The CCP may also wish to consider whether to delegate some initial replies so that he remains available to deal with any continuing concern.

7.71 Clearer analysis of the overall assessment of complaints needs to be undertaken so that trends may be identified and steps taken to address recurring problems. Several were, for instance, from victims concerning issues relating to compensation (see paragraph 7.42). There were a comparatively high number of complaints which were justified. This worried us in itself, and reinforced our view that a better recording system was required with regular analysis of complaints.

7.72 We recommend that the CCP and ABM should devise and implement a fully effective system of dealing with complaints, and the concluded complaints should be analysed, and action taken to avoid recurrence.

CONCLUSIONS, GOOD PRACTICE, SUGGESTIONS AND RECOMMENDATIONS

Conclusions

8.1 The CCP has only been in office for one year, as has the ABM. We appreciate that some sensitivity still exists flowing from frequent changes in leadership of the office in the recent past, and in some respects from its relationship with previous Area Headquarters.

8.2 Having said that, CPS Gloucestershire has had the benefit of a core of continuity in a stable group of experienced prosecutors and caseworkers. In the light of this, and the fact that there were few truly serious or complex cases being handled on Area, we had expected to find higher overall standards of casework decisions and processes. Much of what we found was satisfactory, some was only just adequate, and we have identified aspects of significant concern. These aspects related to delays in the provision of pre-charge advice; late or ineffective review; late changes of charges which contributed to cracked trials; lack of certainty of decision-making (and record keeping) in the discontinuance of cases; inadequate instructions to counsel and the drafting of indictments which required substantial amendments; superficial undertaking of the duties of disclosure; and some uncertainty in dealing with custody time limits.

8.3 We were heartened by the fact that the CCP and ABM for the most part had recognised many of the matters we have commented upon adversely within the context of both casework and management and operational issues. Indeed action had already been initiated to tackle a number of these issues and we fully acknowledge this.

8.4 The CCP has been hampered by the time he has had to devote to a case arising in another Area. There has also been a lack of cohesion in the AMT. The first is hopefully to be resolved in conjunction with the Director of Casework, and the senior managers further recognise the need to forge a strong and dynamic management team to address all the issues with both a degree of sensitivity and a degree of determination. If the AMT can convince staff that a number of changes are capable of reducing burdens and pressures upon them, then progressive steps can be taken to improve the aspects which support casework decisions and decision making. We are pleased that the CCP is working to these ends, and is furthermore seeking to work more closely with the CPS' partners in the criminal justice system to achieve mutual benefits and improved working practices.

8.5 The overall mix of work is not weighty. There was a selection of cases in which there were difficult decisions to make (for example fatal road traffic offences), but overall the caseload was weighted towards the less serious end of the scale. Nevertheless, at present, Area staff continue to feel they re under great pressure, whilst our assessment of the nature of the casework and numbers of cases indicate that this should not be the case. CPS activity based costing figures indicate a similar picture, even with large numbers of minor motoring offences being registered.

8.6 Area staff have not had the benefit of consistent management in the past, and recently they have experienced wide reaching changes following the Glidewell report and the new practices flowing from the Narey initiatives. Changes will continue, but a clear sense of purpose on the part of the AMT, and positive communication, will help the Area progress and bring about the change in emphasis on its work to the more serious offences, and achieve efficiency savings which will reduce the pressure on individuals.

8.7 This will require a considerable amount of close working by senior managers with the police and courts to ease rubbing points, achieve quality standards proposed by the Trials Issues Group, implement reforms in working practices under the Narey initiatives, and use the new provisions for dealing with minor traffic cases.

8.8 We hope that quicker and more consistent allocation to staff of cases intended to go for trial in the magistrates' courts, or for committal to the Crown Court, will enable them to manage the individual cases and their own caseload more effectively. Additionally, it should increase their level of job satisfaction by demonstrating that the quality of their input plays a crucial role in raising standards of criminal justice across the board. We are thinking of the impact on victims and witnesses, as well as on the overall progression of cases without delay. Higher standards of file quality, preparation and listing will lead to better standards of presentation in court, thereby enhancing the standing of the prosecutors in the magistrates' courts. Greater involvement in Crown Court cases, through more rigorous decision-making, careful preparation, and attending court in both bail applications and their own key contested trials should do the same for prosecutors in the Crown Court, in conjunction with the caseworkers who handle these cases.

Good practice

8.9 It is appropriate that we draw attention to those Area practices or initiatives that deserve to be commended.

8.10 **Recording of oral and informal advice** (paragraphs 3.22 – 3.23) – Prosecutors' use of carbonated forms to record the advice they give to police officers in the absence of a formal file assists in improving the quality of advice. It also ensures that the advice is available to link to any ensuing prosecution file, and ensures accuracy of PIs.

8.11 **Domestic Violence** (paragraph 5.77) – The Area has signed a declaration of support designed to co-ordinate the responses of agencies to incidents of domestic violence, and has appointed one prosecutor as an Area co-ordinator. (We have suggested enhanced systems of referral and monitoring of these cases to support this initiative.)

8.12 **Management of human resources** (paragraph 7.27) – The Area has recognised the need to ensure that members of staff at all levels need continuing training and development, and has recently undertaken a full day's training for level A staff.

8.13 **Use of agents** (paragraph 7.37) – The Area's practice of supplying agents with relevant papers two days before the hearing ensures that they can be well prepared.

8.14 **Performance indicators** (paragraph 7.66) – The Area's initiative in devising a computer programme for the collection and collation of Crown Court case outcomes and PIs should assist the Area itself, and is being assessed for wider use in other Areas.

Recommendations and suggestions

8.15 The distinction between recommendations and suggestions lies in the degree of priority that the Inspectorate considers should attach to the proposals, with those matters meriting highest priority forming the basis of recommendations.

8.16 With a view to improving the performance of the Area, we make the following recommendations:

1 the CCP and PTLs should effectively monitor the advice given by prosecutors to the police to ensure that the quality of advice is maintained at a high level (paragraph 3.9);

2 the PTLs should implement an effective system to ensure that advice is provided to the police within 14 days (in all save the most substantial cases) (paragraph 3.15);

3 prosecutors should review cases effectively and expeditiously; and that the CCP and PTLs should effectively monitor initial and continuing review decisions (paragraph 4.13);

4 the CCP and PTLs should introduce a system to ensure (i) that files relating to persistent young offenders are specifically identified; and (ii) that they are given appropriate priority (paragraph 4.31);

5 the CCP should monitor discontinued cases, to ensure that reasons for discontinuance are recorded on files; reasons for discontinuance are analysed; the quality of decision-making is monitored; and such cases are finalised correctly in the Area's performance indicators (paragraph 4.64);

6 the PTL should ensure cases are allocated promptly, in order to allow prosecutors adequate time to review cases effectively (paragraph 4.75);

7 the CCP and PTLs should ensure that accurate adverse case reports are completed in all appropriate cases, and that they are used in order that lessons can be learned (paragraph 4.87);

8 the CCP ensures that prosecutors and caseworkers receive information about finalised cases and that up-to-date information about developments in the criminal law is available to prosecutors (paragraph 4.92);

9 prosecutors and caseworkers should make full records on the files of initial and continuing reviews, decisions and reasons for those decisions (paragraph 4.100);

10 the AMT introduces the use of an unused material record sheet, and that prosecutors at each relevant stage record the reasons for their decisions on disclosure upon the sheet; and that all material relating to disclosure is kept in a separate unused material folder (paragraph 5.15);

11 the CCP and PTLs be rigorous in requiring prosecutors to comply with their duty to make primary and secondary disclosure in all appropriate cases (paragraph 5.22);

12 the CCP should take steps to ensure that prosecutors record that they have considered sensitive material, their decisions and the reasons for those decisions (paragraph 5.27);

13 the CCP and PTL should ensure that summary trials are reviewed appropriately and prepared expeditiously, with a view to reducing the number of cracked trials (paragraph 5.32);

14 the CCP and PTL should monitor the content of instructions to counsel to ensure that they contain an accurate summary of the case, identify and address the issues and, where applicable, address the acceptability of pleas (paragraph 5.47);

15 the CCP reviews the custody time limit systems used in the Area and ensures that the overall system is reliable, properly understood and administered, and that all staff are properly trained in its use (paragraph 5.92);

16 the CCP urgently enters into discussion about court listing with the Justices' Chief Executive, Justices' Clerks and Chairmen of the Bench with a view to reaching listing practices which reflect the true spirit of Glidewell, Recommendations 21 and 22 (paragraph 6.24);

17 the AMT should hold meetings at a minimum every month, with the expectation that all members will make it a top priority, with a view to ensuring that the Area is managed effectively and efficiently and that objectives within the Area Business Plan are achieved (paragraph 7.4);

18 team meetings and/or staff sounding or consultative meetings should be held in order to ensure that there is more effective communication between all members of staff (paragraph 7.10);

19 that the AMT ensures that all key logs are accurately maintained and used effectively to assist in case management and the prevention of delay (paragraph 7.17);

20 the CCP should liaise with representatives of other criminal justice agencies with a view to ensuring that the SLA dealing with all aspects of the treatment of victims and witnesses is implemented (paragraph 7.46);

21 the CCP adopts a clearer strategy on the focus of external working relations and liaison (paragraph 7.51);

22 the AMT implements a rigorous approach to missing files, for instance maintaining a missing files log (paragraph 7.55);

23 the AMT should ensure that all appropriate staff receive training in the recording of PIs, to ensure that accurate information is available to assist in the management of the Area (paragraph 7.65);

24 the CCP should liaise with the police and the Magistrates' Courts Service with a view to ensuring that the provisions of the Magistrates' Courts (Procedure) Act 1998 are implemented in a properly structured manner (paragraph 7.68);

25 the CCP and ABM should devise and implement a fully effective system of dealing with complaints, and the concluded complaints should be analysed, and action taken to avoid recurrence (paragraph 7.72).

8.17 We also make the following suggestions:

1 the CCP ensures the system for monitoring indictments is reintroduced (paragraph 5.57);

2 prosecutors remain at the Crown Court after dealing with bail applications, wherever practicable, to provide assistance to caseworkers and instructions to counsel when pleas are tendered or problems arise (paragraph 5.65);

3 the CCP and PTL develop arrangements so that caseworkers retain responsibility for and manage their own cases throughout, including instructing counsel where feasible (paragraph 5.70);

4 the CCP and PTLs introduce a system to ensure that files involving domestic violence are monitored by the Area co-ordinator (paragraph 5.78);

5 the ABM reviews the Area's arrangements for providing information to the Probation Service, to ensure that it is reliable and the provision of documentation is properly recorded (paragraph 5.99);

6 prosecutors, where it is necessary to transfer cases from one court room to another, should be involved in the decision as to which cases should be transferred (paragraph 6.18);

7 the CCP ensures that there is regular and effective monitoring of the performance of CPS advocates in court, and that immediate feedback is given to the prosecutor concerned (paragraph 6.39);

8 the CCP ensures that there is structured and effective monitoring of the performance of agents at court, with suitable arrangements for feedback to be given as soon as possible thereafter (paragraph 6.42);

9 the AMT adopts a structured monitoring system so that they can be satisfied that they are obtaining objective and reliable information about the performance of counsel in the Crown Court (paragraph 6.45).

KEY STATISTICS

9.1 The charts in Annex 1 set out the key statistics about the Area's casework in the magistrates' courts and the Crown Court for the year ending 31 March 2000.

EXTERNAL CONSULTATION

10.1 Annex 2 is a list of the local representatives of criminal justice agencies who assisted in our inspection.

ANNEX 1

Table for chart 1

MC - Types of case	CPS Gloucester		National	
	Number	%	Number	%
Advice	601	3.6	52,625	3.7
Summary motoring	8,316	50.2	526,517	36.7
Summary non-motoring	2,117	12.8	260,944	18.2
Either way & indictable	5,333	32.2	580,019	40.4
Other proceedings	201	1.2	14,089	1.0
Total	16,568	100	1,434,194	100

Table for chart 2

Completed cases	CPS Gloucester		National	
	Number	%	Number	%
Hearings	11,901	75.5	998,717	73.0
Discontinuances	2,398	15.2	166,861	12.2
Committals	531	3.4	87,885	6.4
Other disposals	936	5.9	114,017	8.3
Total	15,766	100	1,367,480	100

Table for chart 3

Case results	CPS Gloucester		National	
	Number	%	Number	%
Guilty pleas	10,048	84.1	824,888	82.2
Proofs in absence	1,419	11.9	117,396	11.7
Convictions after trial	346	2.9	43,852	4.4
Acquittals: after trial	124	1.0	15,001	1.5
Acquittals: no case to answer	5	0.0	1,779	0.2
Total	11,942	100	1,002,916	100

Table for chart 4

Types of case	CPS Gloucester		National	
	Number	%	Number	%
Indictable only	167	17.1	28,162	22.6
Either way: defence election	63	6.5	18,572	14.9
Either way: magistrates' direction	285	29.2	40,097	32.2
Appeals	112	11.5	13,586	10.9
Committals for sentence	348	35.7	23,931	19.2
Total	975	100	124,348	100

Table for chart 5

Completed cases	CPS Gloucester		National	
	Number	%	Number	%
Trials (including guilty pleas)	454	88.2	74,256	85.5
Cases not proceeded with	59	11.5	9,616	11.1
Bind overs	2	0.4	1,533	1.8
Other disposals	0	0.0	1,426	1.6
Total	515	100	86,831	100

Table for chart 6

Case results	CPS Gloucester		National	
	Number	%	Number	%
Guilty pleas	341	74.6	55,407	73.3
Convictions after trial	76	16.6	11,553	15.3
Jury acquittals	31	6.8	6,881	9.1
Judge directed acquittals	9	2.0	1,777	2.3
Total	457	100	75,618	100

Chart 1: MC - Types of case

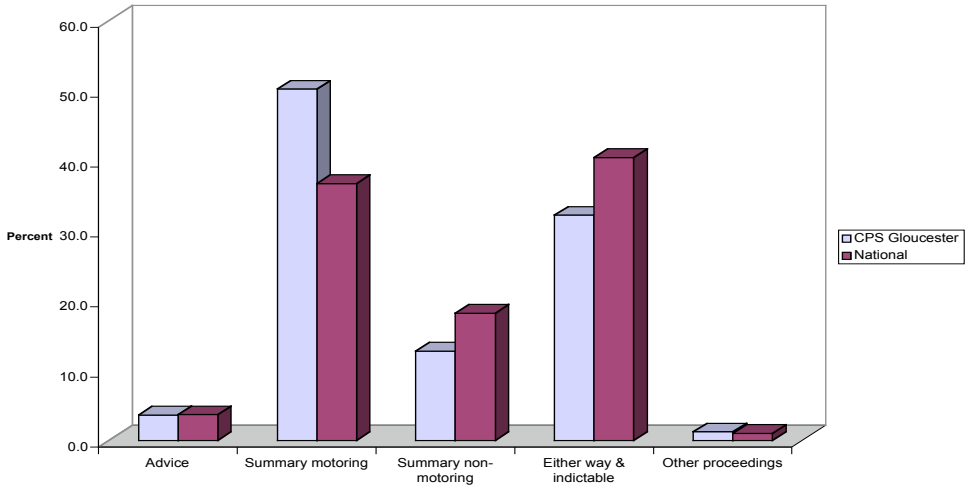


Chart 2: MC - Completed cases

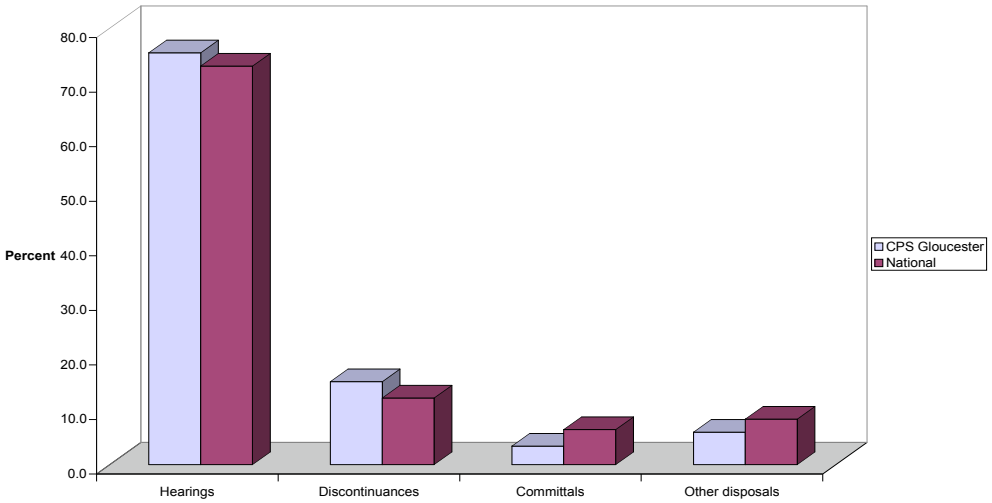


Chart 3: MC - Case results

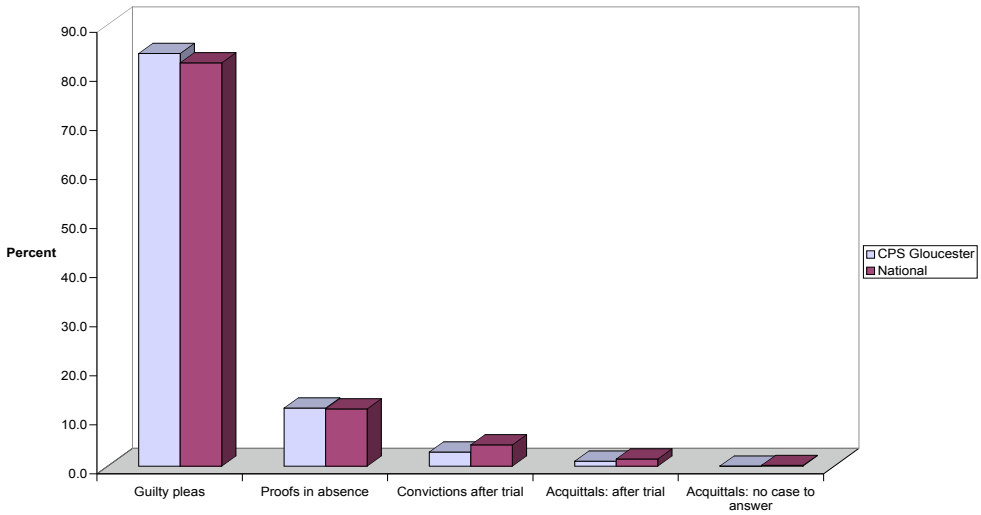


Chart 4: CC - Types of case

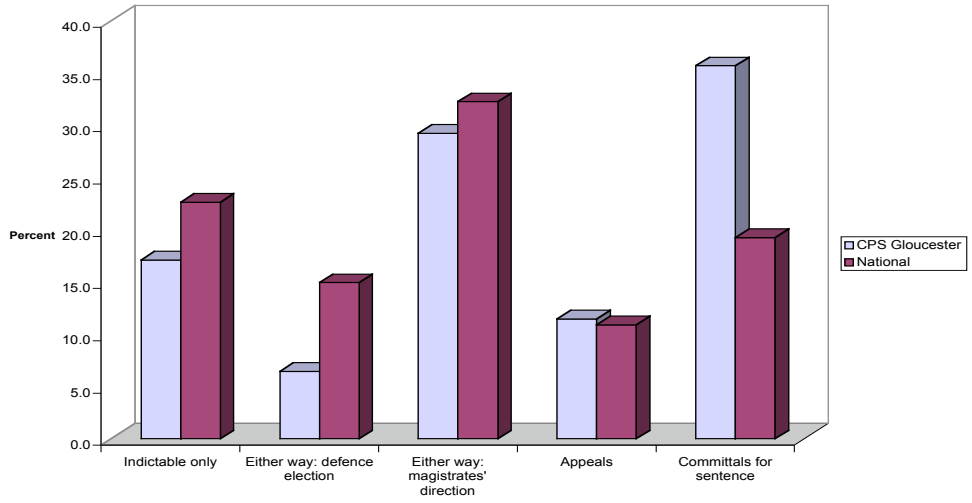


Chart 5: CC - Completed cases

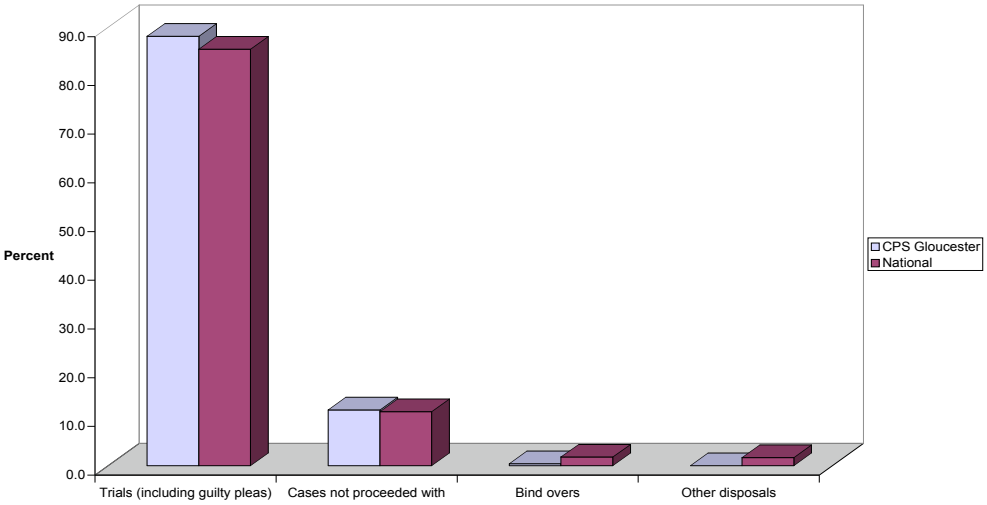
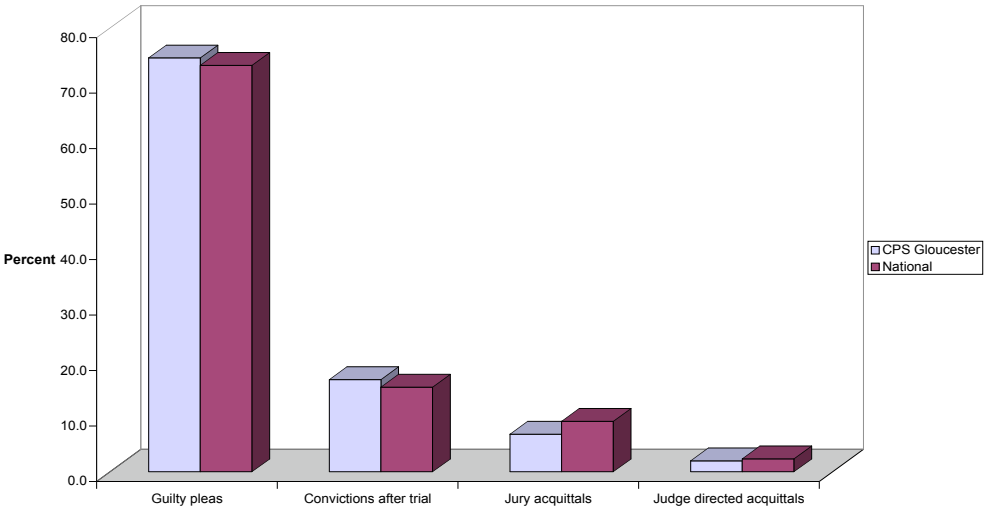


Chart 6: CC - Case results



ANNEX 2

LIST OF LOCAL REPRESENTATIVES OF CRIMINAL JUSTICE AGENCIES WHO ASSISTED IN OUR INSPECTION

Judge	His Honour Judge Hutton
Magistrates' Courts	Mr C Evans, JP, Chairman of the Gloucestershire Magistrates' Courts' Committee Mr A H Bradley, JP, Chairman of the Cirencester, Fairford and Tetbury Bench Mr F A Howarth, JP, Chairman of the South Gloucestershire Bench Mrs P M Hudson-Bendersky, JP, Chairman of the North Gloucestershire Bench Mr R J Jenkins, JP, Chairman of the Forest of Dean Mr P M Walker, JP, Chairman of the Gloucester Bench Mr J A Finnigan, Justices' Chief Executive Miss M B Headen, Clerk to the Justices Mr M Pink, Clerk to the Justices
Police	Mr A J P Butler, CBE, QPM, Chief Constable Mr J E K Ellis, Assistant Chief Officer Superintendent R Barker Mr J Bond
Defence Solicitors	Mr T Burrows
Counsel	Mr J Royce, QC Mr M Longman
Probation Service	Ms S Meredith
Victim Support	Mr P Lowry
Witness Service	Ms K Nielson

ANNEX 3

CROWN PROSECUTION SERVICE INSPECTORATE

Statement of purpose

To promote the efficiency and effectiveness of the Crown Prosecution Service through a process of inspection and evaluation; the provision of advice; and the identification and promotion of good practice.

Aims

1 To inspect and evaluate the quality of casework decisions and the quality of casework decision-making processes in the Crown Prosecution Service.

2 To report on how casework is dealt with in the Crown Prosecution Service in a way which encourages improvement in the quality of that casework.

3 To report on other aspects of Crown Prosecution Service where they impact on casework.

4 To carry out separate reviews of particular topics which affect casework or the casework process. We call these thematic reviews.

5 To give advice to the Director of Public Prosecutions on the quality of casework decisions and casework decision-making processes of the Crown Prosecution Service and other aspects of performance touching on these issues.

6 To recommend how to improve the quality of casework and related performance in the Crown Prosecution Service.

7 To identify and promote good practice.

8 To work with other inspectorates to improve the efficiency and effectiveness of the criminal justice system.

9 To promote people's awareness of us throughout the criminal justice system so they can trust our findings.